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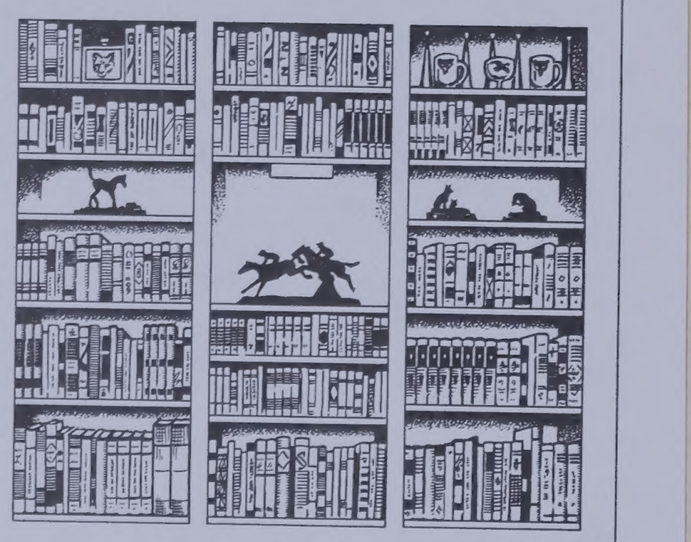

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JOHN AND MARTHA DANIELS

THE

LAWS

OF THE

FOREST and GAME:

AND ALSO,

Of *Hunting*, *Hawking*, *Fiſhing*, and *Fowling*,

According to the

Common and Statute-Laws

OF

ENGLAND.

In the *SAVOY*,

Printed by *J. Nutt*, Aſſign of *Edward Sayer* Eſq; for *R. Bonwick*, *W. Freeman*, *T. Goodwin*, *J. Walthoe*, *M. Wotton*, *S. Manſhip*, *J. Nicholſon*, *R. Parker*, *B. Tooke*, and *R. Smith*. M.DCC.IX.

THE

WAY

TO

HOPE FIRST and CLAIM

A NOBLE

Of Hunting, Hawking, Fishing and Archery

According to the

Compleat and Absolute

ART

OF

ANGLING

In three PARTS.

Printed for J. Nutt, Agent of Edward Sayer Esq; for R. Bonwick, W. Freeman, T. Goodwin, J. Walthoe, M. Wotton, S. Manship, J. Nicholls, R. Parker, B. Tooke, and R. Smith. M.DCC.IX.

THE LAWS OF THE FOREST and GAME, &c.

The Introduction, with relation to Mr. *Manwood*'s Laws of the Forest.

IT muſt with Reſpect be acknowleged, That the Treatiſe, compoſed by the Judicious Mr. *Manwood*, relating to the Laws of the Foreſt, is an elaborate and excellent Collection (eſpecially the Third Edition thereof, printed in 1665, with ſome References from the Judicious Lord *Coke*'s, 4 *Inſt. chap.* 73. *&c.* is the moſt compleat which hath hitherto been publiſh'd on that particular Subject) and therefore deſervedly and principally to be choſen as the Ground-Work, from whence to gather the beſt Information concerning a Foreſt, it's peculiar Liberties and Juriſdictions, according to the *Engliſh* Conſtitutions thereof: Wherein alſo will evidently appear the Nature, Laws and Privileges of a Free Chaſe, Park, and Warren.

Further Additions from 4 *Co. Inſtitut. chap* 73.

However, in this Diſcourſe, ſeveral Matters relating to the very Conſtitution of Foreſts, and Privileges of *Purlieus*, and the Owners thereof (for what Reaſon I know not) neglected or rejected in the laſt Edition of Mr. *Manwood*'s Book, are inſerted as they are collected from that moſt excellent Treatiſe of *The Courts of the Foreſt*, in 4 *Co. Inſt. chap.* 73. Which you may pleaſe to obſerve, eſpecially at the End of the Diſcourſe of *Purlieus*; and in the Reſolutions and principal Notes of the Aſſizes, *&c.*

Of the Antiquity of Foreſts.

Of the Antiquity of our *Engliſh* Foreſts.

IN Mr. *Manwood*'s Preface to the Subject Matter of his Book, laſt publiſhed, and elſewhere, in the Body thereof is plainly demonſtrated, That Foreſts have been in this Realm from the Firſt Time it was Inhabited; for that 'tis recorded of *Gurguntius*, the Son of *Belyn*, being a King of this Land, That he did make certain Foreſts in *Wiltſhire*, as alſo divers Kings and Princes ſince his Time in other Places: Which Foreſts they have always maintain'd and preſerv'd (with divers Privileges and Laws belonging to the ſame) as Places of Pleaſure and Delight for their Recreation.

They had their Original and Privileges at the King's Pleaſure.

The incertainty of the Laws thereof, until King *Canutus*.

That Offenders entring and treſpaſſing in thoſe Privileged Places, were ſeverely puniſh'd at the King's Will and Pleaſure, and not by any Law certain; for that until the Time of King *Canutus* the *Dane*, which was about the Year 1016, the former Laws were altogether uncertain: Wherefore *Canutus*, for the better Preſervation of ſuch Places, privileged for the Prince's Pleaſure, did eſtabliſh certain Laws, ſet forth in 34 Canons, relating only to Foreſts.

Who gave Liberty to Freemen to hunt in their own Grounds.

By the 30th Canon whereof, it appears, That before that Time all wild Beasts were the King's, wheresoever they were out of the Forest: And therefore that King made this Law, *viz.* That every Freeman might have his own Vert or Venison in his own Plains upon his own Ground, without the Chase, so that they did refrain from the King's Game wheresoever he should please to have it.

Yet the Lord *Coke*, in 4 *Inst.* 320. supposes the true Law to be otherwise, and to this Effect, *viz.*

As well in Fields as in Woods.

Also moreover I grant, That every one in their own proper Privileges may hunt wild Beasts, as well in Fields as in Woods, *&c.* and saith, this differs much from the other, in Two Respects; 1. That the true Law extends as well to Woods as to Plains, the other only to Plains. 2. That by this they may hunt, by that they cannot.

Confirm'd by King *Edward* the *Confessor.*

That King *Edward* the *Confessor* did confirm this Canon, and so both the said Kings did grant this Law, That thereafter it should be lawful for every Subject to enjoy the Benefit of his own Hunting that he could any way take in his own Land, or his own Woods or Fields; but so as he should refrain from hunting the King's wild Beasts in his own Forests, and privileged Places for them, upon Pain of the Loss of such Offender's Life.

Upon Penalty of Life, to forbear the King's Game.

Also confirm'd by several succeeding Kings.

And it also further appears, that *William* the Conqueror, *William Rufus*, and King *Henry* the First, did severally confirm these Laws; and, after them, King *Stephen* and King *Henry* the Second did confirm the said Laws of the Forest in most Things, and that it appears further in the first Book of King *Henry* the Second's Laws.

The King's Power to create a Forest.

That the King then might (and yet he also may) make a Forest in every Place where he pleaseth, as well in the Lands and Inheritance of any of his Subjects, as in his own Demesn Lands and Inheritance. And thereupon many such Lands were afforested, not only to the great Prejudice of the Subjects by lying open, but also to their great Punishment, and that many Time for a small Offence, if they acted against the Assizes or Laws of the Forest; and the Forfeitures for the same were according to the Will and Pleasure of the King. And this Course of Law continued during the Reigns of King *Henry* the Second, King *Richard* the First, and likewise of King *John*, until King *Henry* the Third, who gave a Remedy, and moderated these Laws by his Charter of the Liberties of the Forest.

And several Lands afforested after King *Hen.* II.

The Inconvenience.

Remedy thereof by the Charter of K. *H.* III.

Which Charter was afterwards confirm'd and enlarged by King *Edward* the First, his Son, for pacifying the Commonalty of this Realm, that then were much grieved at this Mischief; the greatest Part of the Realm being then become Forest.

Confirm'd by King *Edward* I.

Wherefore by the Charter of the Forest, *Article* the First, 'tis provided, That all Forests that King *Henry* the Grandfather had made of the Lands of any of his Subjects, which were not the King's own Demesn Lands, should be disafforested again.

So Lands disafforested again.

And by the third Article of the said Charter there is a Provision, That all such Forests which King *Richard* the First, and also King *John*, had afforested, and made of the Lands or Woods of any of his Subjects, being not the Demesn Lands of the Crown, should be disafforested again. And since that Time, what Things have been thought over-hard or sharp, have been further moderated by several subsequent Statutes.

The King's Demesn Lands excepted.

Remedy by subsequent Statutes.

The Two latest remaining Forests.

So that it seems there is no Forest now remaining that was made since the *New Forest* in *Hampshire*, (which nevertheless was made a Forest in the Time of King *William* the Conqueror) the Forest of *Hampton-Court* only excepted: Which also appears to have been made a Forest by Act of Parliament, *Anno* 31 *Hen.* 8.

Sixty nine Forests in *England.*

And by *Manw. L. For. pag.* 70. *in Marg.* it's observ'd, The other Forests in *England*, which appear to be about 67, are so ancient, that no Record maketh Mention when any of them were erected. *Vide* 4 *Co. Inst.* 319.

Grant of a Forest to a Subject.

And here it may be noted, That no Subject can have and enjoy a Forest as such, without special Grant from the King under the Great Seal of *England*, it being *jus Regale* peculiar only to the Imperial Crown and Dignity, as to a Sovereign Prince. *(Of which, see after.)*

Forest by Common Law, when.

Though it may seem, that before the Statute 22 *Ed.* 4. which was in the Negative, a Subject might have a Forest by the Common Law. *Vide Man. L. For.* 27. *in Marg. & idem. pag.* 73. Yet,

Quo Warranto, against such as make a Chase, *&c.* without the King's Grant.

Idem. pag. 56. It is observed from *Bracton, Lib.* 2. *cap.* 1. *nota* 2. *Bro. Action sur le Statut.* 48. *Quo Warranto* 7. That it is not lawful for any Man in *England* to make any Chase, Park or Warren, in his own Freehold, or elsewhere, to keep or preserve any wild Beasts, or Birds of Forest, Chase, Park or Warren, in it, without the King's Grant or Warrant, otherwise the Offender may be punish'd by *Quo Warranto*, and the Franchise seized into the King's Hands.

Lord *Coke's* Opinion, That the King could not make Forests in other Men's Woods.

It is also noted by the Lord *Coke*, 4 *Inst.* 300. That whereas *Henry* II. claimed, that he might make Forests, not only within his own Woods and Grounds, but

but in the Woods and Grounds of his Subjects; and thereupon made divers such Forests within his own and other Mens Woods and Grounds. Whereupon some Readers and others that have followed them, are of Opinion, That *Henry* the Second might *de jure* do that which he did. But he adds, That the Act of *Carta de Foresta*, For disafforesting those Forests, which is but a Declaratory Law, restoring the Subject to his former Right, is directly against that Conceit in the first and third Articles or Chapters thereof. By this Charter also, all manner of Commons are saved to others.

Or Grounds.

And therefore he concludes, 297. That neither could *Henry* the Second, or any other King, have made or raised a Free-Chase, Park or Warren, for Himself, in any of the Grounds of the Subjects: According to *Plow. Com. Lord* Berkley's *Case*.

Tho' such a Forest may be good by Prescription.

Yet he seems to agree, That a Forest may, by Prescription, be good in Law over other Men's Grounds: And that the King, in his own Grounds, may make a Forest at this Day; which is prov'd by the Two afore-mention'd Chapters, for that such Forests are thereby saved and enacted to stand.

That *Hampton-Court* Forest was made by Agreement, *&c.*

He further instances the Forest at *Hampton-Court*, intended to be made by King *Henry* the Eighth. And that the King finding He could neither make Forest or Chase over other Mens Grounds without their Consents, He came to an Agreement with the Owners, by Indenture, (as if 'twere to make a Chase; but afterwards, in close Words, That it should have the like Liberties, *&c.* as any Free-Chase or Forest within this Realm had, *&c.*) and granted them several Recompences and Privileges: Which passed into an Act of Parliament, 31 *Hen.* 8. *cap.* 5. By which Act, and divers General Clauses referring to Forests, the King intended to have it a Forest.

And that the King, without Consent, cannot erect a Forest, *&c.*

But that hereby it plainly appeareth, both by the King's said Indenture, and by the Judgment of the whole Parliament, that the King could neither erect any Chase or Forest over any Mans Grounds, without their Consent and Agreement; and that yet King *Henry* the Eighth did stand as much upon his Prerogative, as any King of *England* ever did.

The Description of a Forest, Free-Chase, Park and Warren.

Description of a Forest.

A Forest, is briefly described to be a certain open Territory or Circuit of Woody Grounds, great Coverts of Vert, and Fruitful Pastures, appointed and set apart, at the King's Command, by Marks, Meers and Boundaries, repleniſh'd with wild Beasts of Venery or Chase, with Privilege for them, and the Fowls of Forest, Chase and Warren, therein to rest and abide, under the safe Protection of the King, for his Princely Pleasure and Delight.

The Soil, Boundaries and Game.

Laws and Privileges, *&c.*

For the Preservation and Continuance whereof, there are certain Laws, Privileges, Courts, Judges and Officers, proper and peculiar to a Forest, and not to any other Place.

The Special Properties of a Forest.

The Properties of a Forest in Special, are these:

I. *First*, a Forest, as it is truly and strictly taken, cannot be in the Hands of any but the King, because none hath Power to grant Commission to a Justice in Eyre for the Forest, but the King.

II. The *Second*, relates to the Courts of Justice, Seat and Swainmote, belonging to a Forest.

III. The *Third*, has Respect to the Officers thereof.

How a Forest may be in the Hands of a Subject.

Vid. Cowel's Interpreter, Verb. Forest; and it there appears, that he gather'd this from Mr. *Manwood's Forest-Laws*, which was first printed and publish'd, of Two Parts, in the Reign of Queen *Elizabeth*.

But see after, how the same may be a Forest in the Hands of a Subject.

Eight Things whereof a Forest consists.

Wherefore it's said, a Forest doth consist of Eight Things; *viz.* 1. Of Soil. 2. Covert. 3. Laws. 4. Courts. 5. Judges. 6. Officers. 7. Game. 8. Boundaries: And that the Marks, Meers and Boundaries thereof, are either known by Matter of Record, or else by Prescription.

Necessary Officers belonging to a Forest.

And it is further noted, That a Forest must of Necessity have these Officers, *viz.* A Steward, Verderors, Foresters, Regardors, Agisters and Woodwards: Also, that the Swainmote is no less incident to a Forest, than the Court of Pyepowders to a Fair; yet that a Swainmote-Court doth not make it a Forest, but that a Justice-Court doth only make it such.

Concerning a Free open Chase.

The Franchise, next in Degree to a Forest, is a Free Chase, resembling a Forest, in that it is also an open Place, and privileged for the Game, and differ-

How it differs from a Foreſt and Park.

ing only from a Park, in that the latter is incloſed: Yet it farther differs from a Foreſt, as to the Offices and Officers thereunto belonging, and the Puniſhment of Offences therein committed.

Chaſe may be in the Hands of a Subject. *Aliter*, of a Foreſt. *Sed vide poſtea.*

Vide Cowel's Interp. verb. Chaſe; where he alſo obſerves from the ſaid Book of Mr. *Manwood*, of Two Parts, That a Chaſe differeth from a Foreſt in this, becauſe it may be in the Hands of a Subject, which a Foreſt, in it's proper and true Nature, cannot; and from a Park, in that it is not incloſed, and hath not only a larger Compaſs, and more Store of Game, but of Keepers alſo, and Overſeers: And it is ſaid, *Chaſea eſt ad communem Legem. Vide poſtea.*

As to the Beaſts.

It alſo differs from a Foreſt as to the kind of Beaſts therein: For as the Beaſts of the Foreſt are ſaid to be theſe Five, *viz.* The Hart, Hind, Hare, Boar, and Wolf; ſo thoſe of a Chaſe are Five of another kind, *viz.* The Buck, the Doe, the Fox, the Martron, and the Roe.

As to the Officers.

Neither hath the Chaſe ſuch Officers of Note as the Foreſt, *viz.* Verderors, Regardors or Rangers, Foreſters and Agiſtors, but only Keepers and Woodwards: Nor hath it any Courts of Attachments, Swainmote, nor Juſtice-Seat, as hath a Foreſt; alſo the Offenders in a Chaſe are puniſhable by the Common Law, and not by the Foreſt Law, nor by any other Law that is proper to a Chaſe only: And laſtly, Chaſes, that never were any Foreſts, cannot have any Purlieus or Porallees, (that is to ſay) Woods and Lands adjoining, which were diſafforeſted and ſevered from the Old Foreſts by the Perambulations.

Courts.

Puniſhments of Offenders.

A Park is incloſed.

As the Chaſe is next in Degree to a Foreſt, ſo a Park is next in Degree to a Free Chaſe, and differing from it only by Incloſure, as before obſerved. And thoſe Officers which are called Keepers in a Park or Chaſe, are like to thoſe which in a Foreſt are term'd Foreſters.

Park Keepers.

It is obſerv'd from *Hob. Rep.* 39. That a Foreſt and Park, as they are Liberties, are Things incorporeal.

Note: It's ſaid, a Park muſt be inclos'd, and may not lie open; for if it do, it is a Cauſe of Seiſure of the ſame into the Hands of the King, as a Free Chaſe is, if it be incloſed. *Vide Cowel's Interp. verb. Park.* And this he cited from Mr. *Manwood*, *Part. prin.* 149.

A Free Warren.

The next Franchiſe in Degree unto a Park, is the Liberty and Franchiſe of a Free Warren. The Beaſts and Fowls whereof are ſaid to be Four, *viz.* The Hare, the Coney, the Pheaſant and the Partridge, and no other, (being ſuch as may be taken by Long-winged Hawks.)

The Game, &c.

That for the moſt part there are no Officers in a Warren but the Maſter of the Game, or the Keeper; and that there is no Neceſſity of incloſing the ſame, as there is of a Park. *Cow. Interp. Verb. Warren*, cited from the Firſt Part of Mr. *Manwood.*

How a Foreſt may comprehend in it a Chaſe, a Park, and a Warren.

And that becauſe a Foreſt in Dignity is both the higheſt and the greateſt Franchiſe, ſo it doth comprehend in it, a Chaſe, a Park, and a Free Warren; for which Reaſon, the Beaſts of the Chaſe, and Beaſts and Fowls of Warren, are as much privileged within a Foreſt, as the Beaſts of the Foreſt are, every Foreſt being in it ſelf a Chaſe, tho' a Chaſe be not a Foreſt, but a Part of it: And the like may be ſaid of a Park or Warren. For which Reaſon, the Hunting, Hurting or Killing, any of the Beaſts or Fowls of Chaſe, Park or Warren, within the Limits of the Foreſt, is a Treſpaſs of the Foreſt, and to be puniſh'd only by the Laws of the Foreſt, and not otherwiſe.

Preſcription for a Warren or Park within a Foreſt.

Note, It was reſolv'd, That a Man may preſcribe for a Warren for Conies within a Free Chaſe, alſo for a Park within a Foreſt. *Vide Manwood, L. F. laſt pub. pag.* 90.

Chacea eſt ad communem Legem.

Vide 4. *Co. Inſt.* 314. *Chacea eſt ad communem Legem*, and is not to be guided by the Foreſt Laws, and ſo are Parks. *Regiſt.* 8. *b.*

A Man may have a Free Chaſe, as well as a Warren or Park, in his own Grounds.

Id. Co. Inſt. 318. That a Man may have a Free Chaſe, as belonging to his Manor, in his own Woods, as well as a Warren or Park in his own Grounds; for the Chaſe, Warren and Park, are Collateral Inheritances, and not iſſuing out of the Soil, as the Common doth. And therefore if a Man hath a Chaſe in other Men's Grounds, and after purchaſe the Grounds, the Chaſe remaineth. *Reg. Judic.* 35, 36. *Dyer*, 16 *Eliz.* 326, 327.

How a Foreſt is bounded.

And altho' a Foreſt doth lie open, and not inclos'd with Hedge, Ditch, Pale, or Stone Wall, as Parks are, (tho' there be ſeveral particular Woods and Grounds incloſed therein); yet in the Eye of the Law, the Marks, Meers and Boundaries thereof, go round about it, as it were a Brick-Wall, directly in a Right Line from the one of them to the other, and are uſually of ſuch Things which cannot be removed or taken away; as Rivers, Highways, Hills, and ſuch-like; and ſometimes great Trees, that are notably known, are made uſe of for want of other Meers and Boundaries.

By Rivers, Highways, Hills, &c.

Where the Boundaries are known by Matter of Record.

Alſo theſe Boundaries are known, either by Matter of Record, or elſe by Preſcription; and they are known by Matter of Record, upon the ſeveral Perrambulations thereof, made in the Time of K. *Edward* the Firſt, becauſe of the Diſafforeſtations of thoſe Afforeſtations made

made by King *Henry* the Second, King *Richard* the First, and King *John*, as is before obſerv'd.

Where they are known by Preſcription only.

But all ſuch Foreſts as were ancient Foreſts before the Time of King *Henry* the Second, (whereof there were no ſuch Perambulations made, becauſe the Inhabitants thereabouts had no ſuch Cauſe to complain of any ſuch new Afforeſtations,) have their Marks, Meers and Boundaries, known by Preſcription only; and there is no Matter of Record to be found whereby to know them.

All the Boundaries, *&c.* are intirely the King's.

And it is to be farther obſerv'd, That all the Meers and Boundaries of the Foreſt are, according to the Aſſizes of the Foreſt, *Ann. 6 Ed.* 1. intirely the King's, and Parcel of the Foreſt, except in ſome particular Caſes; as where they do conſiſt of ſuch Things as the King hath no Intereſt in; as if a Dwelling-Houſe, Mill, or ſuch-like, be a Meer, or Mark of the Foreſt, yet the King will not thereby have any Intereſt in the ſame. And, 4 *Co. Inſt.* 318. That all the Meers belong to the King: *Quoad Jurisdictionem & Imperium & non quoad Dominium.*

Exception.

None may fiſh in a River that is a Boundary.

Yet by the Aſſizes of *Pickering*, *Ann.* 8 *Ed.* 3. it was adjudged, That no Perſon might Fiſh in any River that is a Boundary or Meer of the Foreſt, without Warrant, becauſe it is Parcel of the Foreſt, and the King's, as being a Meer of the Foreſt: 4 *Co. Inſt.* 318. Nor hunt or kill the King's Deer in a Highway, being an incluſive Boundary, though the State or Intereſt of the Soil be in other Men.

How the Limits, *&c.* ſhall be according to *Stat.* 17. *Car.* 1. 16.

And by *Stat.* 17. *Car. Prim. cap.* 16. The Limits, Meers and Bounds of all Foreſts, ſhall be taken, adjudged, and deemed to extend no farther than they were commonly reputed, known, uſed, or taken to be, *&c.* in the Twentieth Year of King *James*, and not beyond in any wiſe; any Perambulations, Preſentments, Extents, Surveys, Judgments, Records, Decrees, or other Matter or Thing to the contrary notwithſtanding. *See the Statute at Large.*

Of the Regard of the Foreſt, and the Difference between the the Words [*Within the Regard of the Foreſt,*] and [*Within the Limits, &c. of the Foreſt.*]

And whereas in the Aſſizes and Cuſtoms of the Foreſt, *Ann.* 6. *Ed.* 1. *Art.* 3. it is ſaid, That if any Perſon ſhall be found felling an Oak out of the Demeſn Wood, and within the Regard of the Foreſt, without the View or Delivery of the Foreſter or Verderor, he ſhall be attached by Four Pledges, *&c.*

Here the Words, *Within the Regard of the Foreſt*, ſhall be underſtood *within the Limits of the Foreſt*; but it is quite otherwiſe in the Fifth Article of the ſame Aſſizes and Cuſtoms; where it is ſaid, 'If any Man 'ſhall be found Attachable, contrary 'to his Sureties and Pledges, (that 'is, when he has been bound to 'his good Behaviour towards the 'Foreſt, and afterwards offends in 'the like Nature,) he ſhall be di-'ſtrained by his Chattels found 'within the Bounds or Limits of 'the Foreſt:" By which it appears, that ſuch a Perſon may have Chattels diſtrainable within the Bounds and Limits of the Foreſt, which are nevertheleſs out of the Regard of the Foreſt: As if ſuch Chattels or Cattle were remaining in certain Woods or Grounds, that the King by ſome Charter hath exempted to be free from the Burthen and Charge of the Foreſt: So that although they are within the Bounds of the Foreſt, yet they are out of the Regard thereof.

Attachment, *contra Vadios & Plegios.*

Chattels Diſtrainable in the Foreſt, may be out of the Regard thereof.

And this may appear by the Perambulations made of the Foreſts in *Edward* the Firſt's Time, when divers Woods, *&c.* within the Limits and Bounds of the Foreſt, were exempted out of the Regard of the Foreſt: So that there happens to be ſometimes, Towns, Parks and Woods, which lie within the Bounds and Limits of the Foreſt, which notwithſtanding are no Part of ſuch Foreſt, nor within the Regard there, as *Walwood* in *Eſſex* formerly was, being within the Foreſt of *Waltham*. And likewiſe *Havering* Park, which is within the Meers and Bounds of the ſaid Foreſt of *Waltham*, yet out of the Regard of the ſame, and not any Part thereof.

When divers Woods, *&c.* were exempted out of the Foreſt.

And therefore out of the Regard.

So that all ſuch Franchiſes, Lands or Woods, that be any Part of a Foreſt, are within the Regard of the ſame: And all ſuch as are within the Meers and Bounds of a Foreſt, and are no Part thereof, are out of the Regard of the Foreſt: And this is the Meaning of the Diſtinction to be made of the Words, *Within the Regard of the Foreſt*; *Within the Limits or Bounds of the Foreſt*; and, *In the Foreſt.*

Lands, *&c.* Part of a Foreſt, are within the Regard.

Aliter, If no Part, though within.

Concerning a *Purlieu* or *Pourallee* of the Foreſt.

A *Purlieu* or *Pouralle* of the Foreſt, is a Circuit of Ground adjoining to the Foreſt, circumſcribed likewiſe with immovable Boundaries, known only by Matter of Record; which Compaſs of Ground was once Foreſt, and afterwards diſafforeſted, by the Perambulations made for that Purpoſe, for all the Woods and Lands as were afforeſted by *Hen.* 2. *Rich.* 1. or King *John*, and by the Perambulations ſevered from the antient Foreſts, were, and yet are, called *Pourallees*, *viz.* Woods and Lands ſevered from the old Foreſts, and diſafforeſted by Perambulation; *Pourallee* in *French* being the ſame as *Perambulatio* in *Latin.*

Land diſafforeſted and ſevered by the Perambulations.

Yet not ſo, but they ſtill may be made Foreſts again.

Yet notwithſtanding ſuch diſafforeſting by Perambulations, whereby the ſame became *Pourallee* or *Purlieu*, they were not thereby ſo diſafforeſted as to every Man, but chiefly as to the Owners; ſo that the ſame remain Foreſt ſtill, as to all thoſe that have no Property

perty to the Land therein, for the Owners of the Woods and Lands there-
By Consent. in may ſuffer the *Pourallee* to remain Foreſt ſtill, if they be ſo minded to have Common, *&c.* within the Foreſt; of which, more hereafter.

Of Waſte, Aſſart, and Purpreſture of the Foreſt.

Waſte in the Foreſt, what it is, and how puniſhable.

HERE Waſte is taken in the ſame Senſe that Spoil is: For a Waſte of the Foreſt is as much by common Intendment, as to ſay, a Spoil of the Coverts or Paſture of the Foreſt. *Manw.* 153.

Seizure and Fine.

For this Offence, the whole Wood or Place waſted, is to be ſeized into the King's Hands, and ſo remain, till the Owner in his Life, or his Heir after his Death, ſhall replevy it, and make his Fine to the King. *Id.* 151.

An Aſſart, what it is, and how puniſhable.

And whereas a Waſte in the Foreſt is but the felling or cutting down of the Coverts, which may grow again, and become Coverts in time: An Aſſart, is a plucking up thoſe Woods by the Roots that are Thickets or Coverts of the Foreſt (without Licence), to make the ſame a Plain or Arable Land, ſo that they cannot grow again to become Coverts, be it by the Owner, or others:

When by the Owner, *&c.*

And thereby the whole Piece of Ground that is ſo aſſerted, be it in Woods, Meadow or Paſture, or any other Aſſart of the Foreſt, ſhall be ſeized into the King's Hands, and ſo remain until either the Owner in his Life-time, or the Heir after his Death, ſhall replevy it, and make Fine to the King. *Manw.* 154, 157.

Seizure and Fine.

And if the Aſſarting be of the King's own Woods or Lands, the Offender is to be impriſon'd for the Firſt Offence, without Bail or Mainprize, until he has made his Fine to the King: But if the Aſſarting be of Woods or Lands of another Man, the Offender is bailable for the Firſt and Second Offence; but for the Third, he is to be impriſon'd until he hath made Fine to the King, except the Chief Juſtice of the Foreſt will deliver him upon Bail. *Id.* 159.

Impriſonment, *&c.*

Until he makes Fine.

Purpreſture, what it is.

Purpreſture in a Foreſt, is moſt properly, when any Man doth make any manner of Encroachment upon the King's Foreſt, by Building, Incloſure, or by uſing any Liberty or Privilege, without any lawful Warrant ſo to do. *Manw.* 167.

If it be made in the King's Demeſns.

If the Purpreſture be made in the King's own Demeſn Woods or Lands, then his Body is to be committed and detain'd in Priſon without Bail or Mainprize, until he hath made Fine for the ſaid Offence, at the King's Will and Pleaſure; and ſhall alſo yield the Place, upon which the Purpeſture is made to the King, to whom of Right it doth belong. *Id.* 174.

If in a Man's own Lands, *&c.*

And for every Purpreſture that a Man doth make in his own Lands or Woods that he hath within the Foreſt, as in building up of any Houſe where none was before, the Judgment is Twofold, *viz.* Firſt, He ſhall pay a Fine to the King, according to the Quantity and Quality of the Offence: And Secondly, That the ſame Houſe or Purpreſture be pull'd down again, or elſe to pay a Yearly Rent, for the ſuffering the ſame to remain; which is left to the Choice and Diſcretion of the Lord Chief Juſtice of the Foreſt.

Fine, *&c.*

Elſe a Rent, *&c.*

Of Vert, Venery and Veniſon, a General Deſcription.

FOR that the Laws of the Foreſt (which are next to be ſet forth) are chiefly made for the Preſervation of the Vert and Veniſon thereunto belonging, it may in this Place be convenient to give a General Deſcription thereof.

Deſcription of Vert.

Vert therefore in general, is every Plant that doth grow within the Foreſt, and bear green Leaf which may hide or cover a Deer under it: But here, this Word *Plant* muſt be underſtood, for ſuch Plants as are either Trees, Woods, Buſhes, or ſuch-like, which are of the Nature of Wood or Underwood, and not of thoſe kind of Plants which are of the Nature of Herbs, as Thiſtles, and ſuch-like, which may alſo be comprehended within the Word *Plant*, but not in this Senſe.

An. 6 Ed. 1. *Raſt. Abridg. Stat. intit.* Foreſt.

And when, after the making *Charta de Foreſta*, ſome queſtioned what was to be accounted Vert; King *Edward* the Firſt, to make the Certainty known to all Men, made a Law to this Purpoſe: 'Know 'ye (ſaith the King) that all Trees 'that ſhall be growing within the Fo-'reſt, as well thoſe which bear no Fruit 'at all, as thoſe that do bear Fruit, at 'any time in the whole Year; and an 'old Aſh, being in the arable Land with-'in the Foreſt; Theſe ſhall be accoun-'ted Vert, becauſe the King is in Poſſeſ-'ſion of them." And it is obſerved, That by all Trees, muſt be underſtood as well Underwoods as Great Woods.

Note,

Manw. 120. *Note*, Over-Vert is all manner of high Trees, as Nether-Vert is all ſorts of Underwood; and Bruſhwood is called Cabliſh.

Vert, a *Viriditate*, is of divers Kinds. Some diſtinguiſh Vert after this Manner, *viz.* Vert is derived from *Viriditate*, and is any Thing that beareth Green Leaf, but eſpecially of great and thick Coverts. Alſo, it is of divers Kinds; ſome whereof beareth Fruit that may ſerve for Food both for Man and Beaſt,

Nut-Trees, *&c.* as Service-Trees, Nut-Trees, Crab-Trees, *&c.* and for the Shelter and Defence of the ſame.

Over-Vert. Some, called Hautboys, (or Over-Vert,) ſerving for Food and Browſe, of and for the Game, and for the Defence of them, as Oaks, Beeches, *&c.* Some Hautboys for Browſe, Shelter and Defence only, as Aſhes, Poplars, *&c.*

Nether-Vert. Of Subboys, (or Nether-Vert,) ſome, for Browſe and Food of the Game, and for Shelter and Defence, as Maples, *&c.* Some for Browſe and Defence, as Birch, Sallow, Willow, *&c.* Some for Shelter and Defence only, as Elder, Alder, *&c.*

Buſhes, *&c.* Of Buſhes and other Vegetables; ſome for Food and Shelter, as the Hawthorn, Blackthorn, *&c.* Some, for Hiding and Shelter, as Brakes, Gorth, Heath, *&c.*

Deſcription of Venary and Veniſon. Concerning the Name Veniſon: It is noted, that as old Foreſters and good Woodmen do by the General Term, *Beaſts of Venery*, (or rather *Venary*) underſtand every Beaſt of Foreſt; ſo by this General Word, *Veniſon*, they underſtand every Beaſt of Foreſt and Chaſe, as a Word of Art proper to Beaſts of Foreſt and Beaſts of Chaſe, and to none other; and that therefore by the Word Veniſon, it always muſt be underſtood, that it is one of the Five Beaſts of Foreſt aforeſaid, or one of the Five Beaſts of Chaſe, or elſe the ſame is not to be called Veniſon: But by 4 *Co. Inſt. pag.* 316. Whatſoever Beaſt of the Foreſt is for the Food of Man, that is Veniſon; *& a contra*: And ſome account *Capriolus*, or the Roe, no Veniſon, unleſs hunted.

Manw. 110.

Wolf and Fox. And it ſeems, King *Canutus* did not account the Wolf for a Beaſt of the Foreſt, nor a Fox for a Beaſt of the Chaſe; as afterwards appears in his Charter, *Canon* 27.

Hart and Hind. Alſo, though amongſt the Beaſts of the Foreſt the Hart and Hind are number'd ſeverally, yet they are of the ſame Kind or Species, and they are accounted Two ſeveral Beaſts, becauſe they are of ſeveral Seaſons for Hunting; that of the Hart being in the Summer, and the Seaſon for hunting the Hind beginning when that of the Hart is over.

Stags and Red Deer. Alſo it is to be noted, that with the Hart is included the Stag, and all other Red Deer of *Antiler*.

More Beaſts and Fowls of Warren than are before obſerv'd. And though it's ſaid before, That the Beaſts and Fowls of Warren are, the Hare, the Coney, the Pheaſant, and the Partridge; yet my Lord *Coke* accounteth all Fowls *Feræ Naturæ*, Fowls of Warren, as in *Co. Litt.* 233. There be both Beaſts and Fowls of the Warren, ſaith he; Beaſts, as Hares, Coneys and Roes; Fowls of Two Sorts, *viz.* Terreſtres and Aquatiles (Land Fowl and Water Fowl); that the Terreſtres are of Two Sorts, Silveſtres and Campeſtres; the Firſt are, Pheaſant, Woodcock, *&c.* The Second, Partridge, Quail, Rail, *&c.* Then the Aquatiles, as Mallard, Hern, *&c.*

Difference between Beaſts of Foreſt, and of the Chaſe. There is alſo granted to be this Difference between Beaſts of Foreſt, and thoſe of Chaſe: The Firſt are ſaid to be *Silveſtres tantum*; the latter, *Campeſtres tantum*. The Beaſts of the Foreſt are obſerved to make their Abode all the Day-time in the great Coverts and ſecret Places in the Woods; and in the Night Seaſon, they repair into the Lawns, Meadows, Paſtures, and pleaſant Feeding Places, and therefore they are called Silveſtres, Beaſts of the Wood.

Wherefore thoſe of the Foreſt are called *Silveſtres*.

Why thoſe of Chaſe are called *Campeſtres*. The Beaſts of Chaſe do reſide all the Day-time in the Fields, and upon the Hills or high Mountains, where they may ſee round about them afar off, to prevent Danger; but upon the Night's Approach, they feed as the reſt, in Meadows, *&c.* And therefore theſe are called Campeſtres, Beaſts of the Field.

Of the proper Names, Seaſons, Degrees and Ages, of Beaſts of Foreſt or Venary, Chaſe and Warren.

BEfore all the others, the *Hart* is preferred, as the moſt Noble, Worthy, and Stately Beaſt, and therefore ought to take the firſt Place of Account.

I. He is called,
- The Firſt Year, a Hind-Calf (or Calf).
- The Second Year, a Broker (or Knobler).
- The Third Year, a Spayad (or Brock).
- The Fourth Year, a Staggard.
- The Fifth Year, a Stag.
- The Sixth Year, a Hart.

A Hart-Royal.

The ancient Charter of the Foreſt of King *Canutus*, *Canon* 24. doth call the Hart, *Fera Regalis*, a Royal Beaſt (or a Hart-Royal); but he is more eſpecially ſo, if hunted by the King or Queen; and if he eſcape, and Proclamation be made for his ſafe Return, without Let or Detriment, he is then called a Hart-Royal proclaim'd.

A Hart-Royal proclaim'd.

A Stag.

In ancient Times, ſome did uſe to call him a Stag at the Fourth Year, and the Fifth Year they did call him a Great Stag, and ſo gave him a Difference.

A Great Stag.

Vulgar Error.

But it is held a Vulgar Error, to think that a Stag, of what Age ſoever he be, ſhall not be called a Hart till he be hunted by the King or Queen, and that thence he ſhall derive his Title: For late Huntſmen do agree, he may be called a Hart at and after the Age of Six Years old.

Wherefore he is call'd a Hart-Royal.

Now if the King or Queen ſhall happen to hunt or chaſe him, and he eſcape with Life, he ſhall ever after be called a Hart-Royal; but if he fly ſo far from the Foreſt or Chaſe, that it is unlikely he will ever return of his own accord to the Place aforeſaid, and that Proclamation be made in all Towns and Villages thereabout, that none ſhall kill or offend him, but that he may ſafely return if he liſt, he is then called Hart-Royal proclaim'd. *Manw.* 98, 99. *&c.*

Wherefore he is call'd a Hart-Royal.

II. The *Hind.*

She is called,
- The Firſt Year, a Calf.
- The Second Year, a Brocket's-Siſter (or Hearſe).
- The Third Year, a Hind.

III. The *Hare.*

Which, by ſome old Foreſters, is called the King of all Beaſts of Venary.

A *Hare* is called,
- The Firſt Year, a Leveret.
- The Second Year, a Hare.
- The Third Year, a Great Hare.

IV. The *Wild-Boar.*
- The Firſt Year, he is a Pig of the Sounder.
- The Second Year, he is a Hog.
- The Third Year, he is a Hogſtear (or Hogsſteer).
- The Fourth Year, he is a Boar, at which Age, if not before, he heaveth the Sounder, and then is called a Singler (or Sanglier.)

V. The laſt Beaſt of Venery, is the *Wolf*: Of which, there are none in *England.*

The Names of the Beaſts of Chaſe, according to their Ages.

Beaſts of Chaſe.

I. The *Buck.*

He is called,
- The Firſt Year, a Fawn.
- The Second Year, a Pricket.
- The Third Year, a Sorel.
- The Fourth Year, a Sore.
- The Fifth Year, a Buck of the Firſt-Head.
- The Sixth Year, a Great Buck.

II. The *Doe*, or *Doo.*

She is called,
- The Firſt Year, a Fawn.
- The Second Year, a Pricket's-Siſter (or a Teg).
- The Third Year, a Doe.

III. The *Fox.*

A *Fox* is called,
- The Firſt Year, a Cub.
- The Second Year, a Fox, and afterwards an Old Fox.

IV. The *Martern.*

It is called,
- The Firſt Year, a Cub (or Martern-Cub).
- The Second Year, a Martern.

V. The

V. The last Beast of Chase is the *Roe*.

It is called,
- The First Year, a Kid.
- The Second Year, a Girl.
- The Third Year, a Hemuse.
- The Fourth Year, a Roe-Buck of the First Head.
- The Fifth Year, a Fair Roebuck.

Beasts of Warren.

As to the Beasts of the Warren, the Hare hath been spoken of already. The Coney is called, the First Year, a Rabbet, and afterwards an Old Coney.

The Seasons of Beasts.

Hart, or Buck.

A Hart (or Buck) beginneth at the end of *Fencer-Month*, which is 15 Days after *Midsummer-Day*, and lasteth till *Holy-Rood-Day*.

The Fox beginneth at *Christmas*, and lasteth till *Lady-Day*. Fox.

The Hind (or Doe) beginneth at *Holy-Rood-Day*, and lasteth till *Candlemas*. Hind, or Doe.

The Roebuck beginneth at *Easter*, and lasteth till *Michaelmas*. Roebuck.

The Roe beginneth at *Michaelmas*, and lasteth till *Candlemas*. Roe.

The Hare beginneth at *Michaelmas*, and lasteth till *Midsummer*; others say, till the End of *February*. Hare.

The Season of the Wolf, is said to be from *Christmas* till *Lady-Day*. Wolf.

And that of the Boar, is said to begin at *Christmas*, and lasts till the *Purification* of our Lady. Boar.

As to the Terms of Hunting these Beasts, and of Lodging and Dislodging them, *&c.* they are referred to the Discourse of Hunting, *&c.* Terms of Hunting, *&c.*

Of Agistment, &c.

Agistment and Pawnage.

OF Agistment and Pawnage in the Woods, *&c.* belonging to the Forest: See after, in the Courts and Officers of the Forest, *Tit' Agistors.*

That a Justice-Seat makes a Forest, and not a Swainmote.

And *Note*, by *Stat.* 17 *Car.* 1. *cap.* 16. That no Place where no Justice-Seat, Swainmote, Court of Attachment, *&c.* have been held or kept within the Space of Sixty Years next before, shall be accounted Forest: And by 2 *Bul.* 206. A Swainmote-Court doth not make a Forest, but a Justice-Court doth make it.

The Limits of Forest settled since 20 *Jac.* 1.

This Statute also limits the Meets and Bounds of Forests to be as they were known and used, *Ann.* 20 *Jac.* 1. And that Grounds, since that Time disafforested, should be excluded the Bounds of the Forest; with a Reservation, That the Tenants, Owners and Occupiers of Lands, to be so excluded, should enjoy Common and other Profits and Easements within the Forests as anciently. Reservation.

Every Wood with wild Beasts not Forest, tho' a Forest seems to be a great Wood, *&c.*

Also, though it may seem by the ancient *Latin* Words, *Silva* or *Saltus*, used for a Forest; that therefore a Forest was derived from a Wood, because that wild Beasts have always had their abiding Places in Woods: Yet saith Mr. *Manwood*, *pag.* 68. It doth not therefore follow that every Wood is a Forest, although that there be Deer and other wild Beasts in the same; except that the same Wood be especially privileged by the King for them to rest in a firm Peace. Except, *&c.*

It's said, the Reason why a Subject cannot have a Forest, is because a Justice-Seat is incident to a Forest, and none can make a Justice in Eyre but the King: 2 *Bulst.* 295. *Manw. pag.* 72. in *Marg.* Yet it seems the King may in a Grant of a Forest, by Special Words, give such Power. And by 4 *Co. Inst.* 314. 2 *Bulst.* 297. If the King also grant that the Subject may have a Justice-Seat, here the Subject shall have it Forest, otherwise it seems it shall be but a Chase in the Hands of the Grantee. *Manw. pag.* 77, 78. 81. *&c.* Wherefore a Subject may not make a Forest. But the King may grant him a Special Power.

It appears, the last Prince *Henry* had a Forest granted to him, with a Power also to make a Justice in Eyre, and Licence to keep Courts; and that the Duke of *Lancaster* also had such a Grant, with a Special Commission to make a Justice in Eyre, for keeping of Courts. 2 *Bulst.* 295. *An.* 1 and 2 *Eliz. Dier. fol.* 169. *b. Placit.* 1. *Manw.* in *Marg.* 79. Prince *Henry*, *&c.* had such a Grant.

Also, *Manw. pag.* 80. in *Marg.* it is said, King *Richard* the Second granted to *Thomas* Duke of *Gloucester*, in especial Tail, the Castle of St. *Briovel*, and the Forest of *Dean*; and that by Authority of Parliament, it is enacted, That the said Duke should hold the said Forest as a Forest, and to constitute such Justices and Officers, *&c.* as belong to a Forest. *Co.* 4 *Inst.* 315. Duke of *Gloucester* had Forest granted, *&c.*

Of

Of the FOREST-LAW.

Charter of King *Canutus.*

The Charter or Conſtitutions of King Canutus, *concerning the Foreſt, which ſome ſay, are the moſt ancient Laws of the Foreſt.*

The Preamble.

THESE are the Conſtitutions of the Foreſt, which I *Canutus*, King, with the Advice of my Nobility, do make and eſtabliſh, That both Peace and Juſtice may be done to all the Churches of our Kingdom of *England*, and that every Offender may ſuffer according to his Quality, and the Manner of his Offence.

Pægened. Four Chief Men appointed.

1. There ſhall from henceforth be Four of the beſt of the Freemen, who had their accuſtomed Rights ſecure, (whom the *Engliſh* call *Pægened*) conſtituted in every Province of my Kingdom, to diſtribute Juſtice, together with due Puniſhment, as to the Matters of the Foreſt, to all my People, as well *Engliſh* as *Daniſh*, throughout the whole Kingdom of *England*, which Four we think fit to be called, *The Chief Men of the Foreſt.*

Verderors.

Theſe Four Chief Men are noted to be thoſe Four Officers that are now called Verderors.

Leſpegend. Four middle Sort of Men, *&c.*

2. There ſhall be placed under every one of theſe Four, out of the middle Sort of Men, (whom the *Engliſh* call *Leſpegend*, and the *Danes*, *Young Men*,) who ſhall take upon them the Care and Charge, as well of the Vert as the Veniſon.

Regardors.

Theſe Four ſeem to be thoſe Men that are now called The Regardors.

How not to intermeddle, *&c.*

3. But in the Adminiſtration of Juſtice, we will by no means have ſuch Perſons concern themſelves; yet ſuch middle Sort of Men, after their taking upon them the Care of the Beaſts of the Foreſt, ſhall always be reputed Freemen, ſuch as the *Danes* call *Ealdermen.*

But to be Freemen, *&c.*

(Regardors *reputed Freemen*, alias *Ealdermen.*)

Tinemen. Two meaner Sort of Men.

4. Again, under every One of theſe ſhall be Two of the meaner Sort of Men, [whom the *Engliſh* call *Tinemen*,] theſe ſhall take care of the Vert and Veniſon by Night, and undergo other ſervile Offices.

Alias Foreſters.

Theſe are they that are now called Foreſters *or* Keepers.

How all to be maintained.

5. Such a mean Servant, ſo ſoon as he takes Place in our Foreſt, ſhall be Free; and all theſe we will maintain at our own Charge.

Verderors Fee yearly.

6. Moreover, every one of the Chief Men ſhall have every Year out of our Ward (which the *Engliſh* call *Michni*) two Horſes, the one with a Saddle, the other without, one Sword, five Lances, one Spear, one Shield, and two hundred Shillings of Silver.

Regardors Fee yearly.

7. Every one of the middle Sort of Men, one Horſe, one Lance, one Shield, and ſixty Shillings of Silver.

Foreſters Fee.

8. Every one of the meaner Sort of Men, one Lance, one Croſsbow, and fifteen Shillings of Silver.

All to be acquitted of Taxes and Hundred-Law, *&c.*

9. All of them, as well Chief Men, as middle Sort and meaner Sort of Men, ſhall be free, and quit from all Provincial Summons and popular Pleas, (which the *Engliſh* call *Hundred Laghe*,) and from all Taxes concerning the Wars, and from all foreign Plaints.

The Regardors to be corrected by the Verderors, and the Verderors by the King.

10. The Cauſes of the middle Sort of Men, and their Corrections, as well Criminal as Civil, ſhall be judged and decided by the provident Wiſdom and Diſcretion of the Chief Men; but the Enormities of the Chief Men (if any ſuch ſhall be) leſt any Crime ſhould remain unpuniſhed, we our ſelf will puniſh according to our Royal Diſpleaſure.

Verderors to have Regal Power of *Muchehunt*, and *Gangfordel.*

11. Theſe Four Chief Men ſhall have a Royal Power (ſaving in our Preſence) and four Times in the Year the General Demonſtrations of the Foreſt, and the Forfeiture of Vert and Veniſon, (which the *Engliſh* call *Muchehunt*) where they ſhall all of them hold Claim (or Challenge) of any Matter touching the Foreſt, and ſhall go to a Three-fold Judgment (which the *Engliſh* call *Gangfordel.*) And thus the Three-fold Judgment ſhall be acquired: The Party ſhall take with him Five others, and himſelf ſhall be the Sixth; and ſo by Swearing he ſhall obtain a Three-fold Judgment, or a Triple Oath. But the fiery Purgation ſhall by no means be admitted, except where the naked Truth cannot otherwiſe be found out.

Trial by Fire to be avoided.

This fiery Trial is one of the Trials or Purgations by the Ordelian Law, *which were Two-fold*, viz. *by Fire, if a Freeman; and by Water, if a Servile Man;*

Man; *and was ouſted by Act of Parliament*, 3 Hen. 3.

A Witneſs allowed for *Pegen*, or a Freeman.

12. But a Freeman (1. *Pegen*) ſo that his Crime be not great, may have an honeſt Man, who may take an Oath for him, 1 *Forathe*: But if he hath not, he muſt ſwear himſelf, and ſhall not be excuſed from his Oath.

But a Stranger not finding a Pledge.

13. If a Stranger or Foreigner, who ſhall come from afar off, be challenged of Offence in the Foreſt, and his mean Condition be ſuch, that he cannot procure a Pledge to the firſt Challenge, which no *Engliſh* Man may adjudge; then he ſhall undergo the King's Caption, and there he ſhall ſtay until he ſhall go to the Judgment of Iron and Water; * but if otherwiſe any ſhall paſs a Judgment upon ſuch a Stranger, be it at his own Peril; *ſibi ipſi nocet, ſi aliquod judicium judicaverit.*

To be judged by Iron and Water.

* *This is otherwiſe conſtrued*, viz. *But if any one ſhall hurt ſuch a Stranger, being an Offender, he that doth hurt him, ſhall have his Judgment executed upon him.*

This Judgment was by the *Ordelian* Law.

Note, *The Judgment or Purgation by Iron and Water, were by the* Ordelian Law, *which was for the ſuſpected Party either to paſs over Bars of Red-hot Iron, or be caſt into ſome Pond, or great Veſſel of cold Water, or to thruſt an Arm into a Copper or Cauldron of ſeething Water; in which, if he continued for a while Unhurt, or without Peril of Life*, &c. *he was diſcharged as innocent.*

A falſe Witneſs diſabled to give Teſtimony.

14. Whoſoever ſhall, before my Chief Men of Foreſt, bear falſe Witneſs, and be thereof convicted, he ſhall not afterwards be thought worthy to bear Teſtimony, becauſe he hath loſt the Benefit of the Law, and for his Crime ſhall pay to the King Ten Shillings, which the *Danes* call *Halfe-hang*, alias *Hals-hang*.

Violence to a Verderor puniſhed. 1. Offence, how.

15. If any Perſon ſhall offer any Violence to the Chief Men of my Foreſt, if he be free, he ſhall loſe his Freedom, and all that he hath; and if he be a Villain, his Right Hand ſhall be cut off. This implies for the firſt Offence.

2. Offence, how.

16. If either of them ſhall offend again, he ſhall be guilty of Death.

For contending with a Verderor.

17. But if any ſhall contend in Suit with a Chief Man, he ſhall forfeit as much as he is worth, (which the *Engliſh* call *Pere & Pite*) and ſhall pay to the Chief Man 40 *s.*

Breach of Peace before a Regardor.

18. If any Perſon ſhall break the Peace before the middle Sort of Men of the Foreſt, which they call *Geth-brech*, he ſhall pay to the King 10 *s.*

For ſtriking him.

19. If any Perſon ſhall ſtrike one of the middle Sort of Men in Wrath, he ſhall forfeit as much to the King, as is uſually forfeited for killing a Royal Beaſt.

For offending in the Foreſt.

20. If any Perſon ſhall be taken offending in the Foreſt, he ſhall be puniſh'd according to the Manner and Quality of the Offence.

Difference in the Puniſhment of a Freeman, and him that is not.

21. The Puniſhment and Forfeiture ſhall not be one and the ſame of a Freeman (whom the *Danes* call *Ealderman*) and of him that is not free, nor of a Maſter and of a Servant; of one that is known, and of one that is not known: Nor ſhall the Management of Cauſes, either Civil or Criminal, of the Beaſts of the Foreſt, and of the Royal Beaſts of the Vert, and of the Veniſon, be one and the ſame; for the Crime of Hunting hath from of old, and that not undeſervedly, been reputed one of the greateſt Offences committed in the Foreſt; but that of Vert is ſo ſmall and trivial, (except as it is a Breach of our Royal Chace) that our Conſtitution doth ſcarcely take notice of it; nevertheleſs he that offends therein, is guilty of an Offence committed in the Foreſt.

So for hunting a Royal Beaſt, and one that is otherwiſe.

Offences of Vert are the leaſt.

Puniſhment for chaſing a Beaſt ſo that he pant.

22. If any Freeman, either caſually or wilfully chaſe or hunt a Beaſt of the Foreſt, ſo that by Swiftneſs of the Courſe the Beaſt doth pant for Breath, he ſhall forfeit Ten Shillings to the King; and if he be not a Freeman, he ſhall pay double; but if a Bondman, he ſhall loſe his Skin.

For killing ſuch a Beaſt.

23. But if the Free or Unfreeman ſhall kill any Beaſt of the Foreſt, he ſhall for the firſt pay double; for the ſecond as much, and the third Time ſhall forfeit as much as he is worth to the King.

For forcing a Royal Stag till he pant. *Fera Regalis.*

24. But if either of them, by Courſing or Hunting, ſhall force a Royal Beaſt (which the *Engliſh* call a *Staggon*) to pant and be out of Breath, the Freeman ſhall loſe his Natural Liberty for one Year, and the other his for two Years. But if a Bondman do the like, he ſhall be reckoned for an Out-law, (which the *Engliſh* call a *Frendleſs-man.*)

For killing ſuch Royal Beaſt.

25. But if any of them ſhall kill ſuch a Royal Beaſt, the Freeman ſhall loſe his Freedom, the other his Liberty, and the Bondman his Life.

What Beaſts Biſhops and Barons may hunt and kill.

26. My Biſhops, Abbots and Barons, ſhall not be challenged for hunting in my Foreſt, except they kill Royal Beaſts; and if they do ſo, they ſhall make Satisfaction at the King's Pleaſure.

(*Therefore no Certainty of the Forfeiture is here expreſſed.*)

The hunting wild Goats, *&c.* ſubject to the Regardors, is puniſhable.

27. There are ſome Beaſts (beſides thoſe of the Foreſt) which whilſt they keep within the Limits and Boundaries of the Foreſt, are therefore liable to be anſwered for: Such are wild Goats, Hares and Conies. And there are alſo a great Number of Cattle, which although they live within the Boundaries of the Foreſt, and are ſubject to the Charge and Care of the middle Sort of Men, nevertheleſs can in no ways be reputed Beaſts of the Foreſt: Such are wild Horſes, Buffaloes, Cows, and ſuch-like; but as for Foxes and Wolves, they are not accounted Beaſts of the Foreſt, nor of Venary; therefore the killing of them requires no Recompence: Nevertheleſs, he that kills them within the Bounds of the Foreſt, makes a Breach of the Royal Chaſe, and is ſubject to a leſſer Penalty. And as for a wild Boar, although he is a Beaſt of the Foreſt, yet he is not to be accounted a Beaſt of Venary.

Buffaloes, Cows, Foxes, Wolves, *&c.*

A wild Boar no Beaſt of Venary.

Pulling down Wood without Licence.

28. No Man ſhall pull down our Highwood or Underwood, without Licence of the Chief Men of the Foreſt; if otherwiſe, he ſhall be guilty of the Breach of the Royal Chace.

Cutting down a Holly-Tree, or other Fruit-Tree.

29. But if any Man cut down a Holly-Tree, or any other Tree that beareth Fruit for Food for the Beaſts of the Foreſt, he ſhall pay Twenty Shillings to the King, beſides his Forfeiture for the Breach of the Chace.

How Freemen may take Vert and Veniſon.

30. I will that every Freeman may take his own Vert or Veniſon, or Hunting that he can get upon his own Ground, or in his own Fields, being out of my Chace; and let all Men refrain from my Venary in every Place where I will have the ſame.

This is the Canon that is ſuppoſed to differ from the Lord Coke's 4 Inſt. 320. *before obſerved.*

Forfeiture for keeping Greyhounds in the Foreſt, their Knees being uncut.

31. No mean Perſon ſhall have or keep any ſuch Dogs as the *Engliſh* call *Greyhounds*, except Freemen; yet ſuch their Dogs Knees ſhall be cut before the Chief Men, unleſs the Dogs be removed, and kept Ten Miles from the Bounds of the Foreſt; but when the Dogs come nearer, the Forfeiture ſhall be One Shilling for every Mile. And if any of the ſaid Dogs be found within the Limits of the Foreſt, the Maſter or Owner of the Dog ſhall forfeit his Dog, and pay Ten Shillings to the King.

But Velterers, *&c.* may be kept uncut.

32. But the little Dogs, called *Velterers*, or *Langeran*, becauſe it manifeſtly appears there is no Danger from them, they may be kept without cutting their Knees, and the like concerning the Dogs called *Ramhundt*.

Aliter, if ſuch Dogs become mad.

33. But if it happen ſuch ſort of Dogs become mad, and run up and down every where by the Negligence of their Maſters, they ſhall become unlawful; and the King ſhall be recompenced for ſuch their Unlawfulneſs: But if they ſhall be found within the Circuit of the Foreſt, the Owner alſo ſhall be found out, and make Amends according to the Eſtimation of a mean Man; which, according to the Law called *Lex Merimorum*, amounts to Two hundred Shillings.

If found within the Circuit, the Maſter forfeits 10 *l.*

If ſuch mad Dog bites a Beaſt.

34. And if a mad Dog bites a Beaſt of the Foreſt, then the Owner ſhall make a Recompence, according to the Price of a Freeman; that is to ſay, Twelve times One hundred Shillings: But if a Royal Beaſt ſhall be bitten, then the Owner ſhall anſwer, as for the greateſt Offence in the Foreſt.

If he bites a Royal Beaſt.

Note, The Lord *Coke*, in 4 *Co. Inſt.* 320. adviſes to beware to give Credit to this *Carta de Foreſta* of King *Canutus*, ſaid to be made at a Parliament holden at *Wincheſter*, *Anno Dom.* 1016. becauſe in that Year, the King, at a Parliament at *Wincheſter*, made divers Laws which he publiſh'd in the *Saxon* Tongue; but ſays, He never read that he ever publiſh'd any Law for *England* in the *Daniſh* Tongue, as it is affirmed this was; and that in all theſe Laws the King never maketh mention of this *Carta de Foreſta*, or any of the ſuppoſed Laws of the Foreſt therein contained; though amongſt his other Laws at the ſame Parliament, *Chap.* 77. he made the Law of Hunting, * *in propriis prædiis, tam in agris quam in ſilvis*, &c. which differs much from that ſuppoſed one of *Canutus*, *Chap.* 30. *&c.*

A Caution againſt theſe Laws ſuppoſed to be of King *Canutus*.

* *See a like Grant from the Empreſs* Maud *to* Miles *of* Glouceſter. *Co.* 4 *Inſt.* 293.

Therefore he leaves this *Carta de Foreſta* of King *Canutus*, as juſtly ſuſpected; and concludes, That whatſoever it be, it is of little Uſe; for ſo many Chapters therein as be contrary to, or differing either from our *Magna Charta de Foreſta*, or any other Act of Parliament, are certainly of no Force.

The Charter of K. *Canutus* ſuſpected.

CHARTA de FOREST A

Abridgment of the Charter of the Foreſt, publiſhed in the Ninth Year of King Henry III. *and alſo of other Statutes.*

Chap. I.

The diſafforeſting of ſeveral Foreſts.

THAT all Foreſts which King *Henry* the Second afforeſted, ſhould be viewed by lawful Men; and if he had made Foreſt of any other Woods but his own Demeſn, whereby the Owner received Hurt, they ſhould be diſafforeſted, ſaving the Common of Herbage, and other Things in the ſame Foreſt, to ſuch as had been accuſtomed to enjoy them.

Saving of Common.

Chap. II.

Out-dwellers how liable to Summons.

That none dwelling out of the Foreſt, ſhall come before the Juſtices of the Foreſt by common Summons, unleſs they be impleaded there, or be Sureties for others that are attached for the Foreſt.

Chap. III.

Foreſts made from Woods diſafforeſted.

That all Foreſts converted from Woods by King *Richard* I. or King *John*, ſhould be diſafforeſted, except they were the King's own Demeſn Woods.

Chap. IV.

Prelates, and Peers, *&c.* to enjoy their Woods.

That all Archbiſhops, Biſhops, Abbots, Priors, Earls, Barons, Knights, and other Freeholders, having Woods in Foreſts, ſhould enjoy them as they did at the Coronation of King *Henry* the Second, acquitted of all Purpreſtures, Waſtes and Aſſerts made after, until the ſecond Year of the Coronation of the ſaid King *Henry* III. and they that made ſuch afterwards, ſhould be anſwerable to the King for the ſame.

Chap. V.

Rangers Exerciſe.

That the Regardors (or Rangers) of the Foreſts, ſhould exerciſe their Regard, as was uſed at the Coronation of King *Henry* II. and not otherwiſe.

Chap. VI.

The View for Lawing of Dogs, *&c.*

That the View for Lawing of Dogs, ſhall be made in Foreſts, at the Regard every third Year, by the View and Teſtimony of honeſt Men, and not otherwiſe; and then he that hath not his Dog lawed, ſhall be amerced 3 *s.* And that no Ox ſhall be taken for lawing of a Dog; and ſuch Lawing ſhall be done by the uſual Aſſize, *viz.* That Three Claws of the Fore-foot be cut off by the Skin; yet ſuch Lawing ſhall not be, but where it had been accuſtomed from the Coronation of the ſaid King *Henry* II.

The manner of Lawing Dogs.

Chap. VII.

Concerning Scot-Ale, *&c.*

That no Foreſter or Beadle make Scot-Ale, or gather Garb, Oats, Corn, Lamb or Pig, but by the Sight, and upon the Oath of the Twelve Regardors, when they ſhall make their Regard. Alſo there ſhall be ſo many Foreſters aſſign'd for keeping the Foreſt, as ſhall be thought ſufficient for the ſame.

Number of Foreſters.

Chap. VIII.

The Courts of Swain-mote, when and how to be kept.

The Court of Swain-mote ſhall be kept only three Times in the Year, *viz.* The firſt fifteen Days before *Michaelmas*, another about *Martinmas*, and the third, fifteen Days before *Midſummer*; at the firſt Two of which, none ſhall appear by Diſtreſs, but the Foreſters, and Verderors and Geſtakers, and at the others only the Foreſters and Verderors; moreover, the Foreſters and Verderors ſhall meet every forty Days to ſee the Attachments of the Foreſt, as well for Green-hue as Hunting, by the Preſentment of the Foreſters, and afore them attach'd. And the Swainmotes ſhall not be kept but in the Counties where they have been uſed to be kept.

Attachments for Green-hue and Hunting.

Chap. IX.

Free Owners of Woods may agiſt them.

Every free Owner of a Wood within the Foreſt may agiſt it, and at his Pleaſure take the Pawnage; he may alſo drive his Hogs thro' the King's Woods to agiſt them where he will; and if they lie one Night in the Foreſt, he ſhall not be queſtioned for it.

Chap. X.

Penalty for killing the King's Deer.

That no Man ſhall loſe either Life or Member for killing the King's Deer; but if he be taken with it, and convict, he ſhall be fin'd, if he hath any Thing; if not, he ſhall be impriſoned a Year and a Day: And then, if he can find good Sureties, ſhall be delivered; but if not, he ſhall abjure the Realm.

Chap. XI.

Liberty for Biſhops and Peers to kill a Deer or two, and when.

That an Archbiſhop, Biſhop, Earl or Baron, being ſent for by the King, at his coming or returning may kill a Deer or two in the Foreſt by which he paſſeth, in view of the Foreſter, if preſent; but if abſent, he muſt cauſe a Horn to be blown for him.

Chap. XII.

Freemen may make Dikes, *&c.*

That every Freeman may within the Foreſt, upon his own Ground, make Mills, Springs, Pools, Marlpits, Dikes, or arable Ground, without incloſing ſuch arable, ſo that it be not a Nuſance to his Neighbours.

Chap. XIII.

He may have Ayries, *&c.*

Every Freeman in his own Woods may have his Ayries of Hawks, Eagles and Herons, and alſo the Honey that is found in his Woods.

Chap. XIV.

None but a Foreſter may take Chiminage or Toll.

None but a Foreſter in Fee, that farms his Bailiwick, ſhall take any Chiminage in Foreſts, and that only of ſuch as buy their Buſhes, Timber, Bark or Coal, to ſell it again, *viz.* 2 *d.* for a Cart, and 1 *d.* for a Horſe, to be taken Half-yearly where it hath been uſed to be taken,

but

but not elſewhere: And thoſe that carry upon their Backs Burthens of Buſhes, Bark or Coal, to ſell for a Livelihood, ſhall have no Chiminage, except they take them out of the King's Woods.

Chap. XV.

Releaſe of Perſons outlawed.

All Perſons outlawed for Treſpaſſes in Foreſts, from the Time of King *Henry* II. unto the Coronation of K. *Hen.* III. were to be releaſed upon finding Sureties to offend no more.

Chap. XVI.

Foreſters in Fee are to attach for Green-hue, *&c.* and to preſent to the Verderors, *&c.*

That no Conſtable, Caſtellian or Bailiff, ſhall hold Plea of Foreſts for Green-hue or Hunting, but the Foreſter in Fee ſhall make Attachments for Pleas of the Foreſt, and preſent them to the Verderors of the Provinces, who ſhall enroll them, and preſent them, encloſed under their Seals, unto the Chief Juſtices of the Foreſt, when they come into thoſe Parts to hold Pleas of the Foreſt, to be determined before them.

Chap. XVII.

Theſe Liberties granted to all Men, ſaving, *&c.*

The King granted theſe Liberties of the Foreſt to all Men; yet ſaving to all Perſons the Liberties and free Cuſtoms in Foreſts, Warrens, and other Places which they had formerly enjoy'd.

In 4 *Co. Inſt.* 300. it is ſaid to be obſervable, That if any Act of Parliament hath been made againſt any of the Articles of the Statute of *Charta de Foreſta*, by the Act of Parliament of 42 *E.* 3. the ſame is made void; and ſo are all Judgments againſt it made void by the Statutes of *Confirmationes Cart.*

Aſſiſa & Conſuetudines Foreſtæ, publiſhed *Anno 9 Ed.* 6.

Attachment of one for Damage to Vert in the Foreſt.

1. IF any Foreſter ſhall find any Man attachable for Vert in the Foreſt, he ſhall firſt attach him by two Pledges, if he can procure them; for the ſecond Offence, he ſhall attach him by four; and the third Time, he ſhall be proſecuted before the Verderors, and be put by eight Pledges; and if he offend any more, his Body ſhall be attached, and retained, that he may remember what Vert is.

What is Vert.

2. Be it known, That all Trees not bearing Fruit, and thoſe which bear Fruit at any time in the whole Year, and an Aſh, if it be old, ſhall remain in the Foreſt, and in the arable Land, they be all Vert, becauſe our Lord the King is in the Poſſeſſion of them.

Felling an Oak within the Regard of the Foreſt.

3. If any Man ſhall be found felling an Oak without the Demeſn Wood, and within the Regard of the Foreſt, without the View or Delivery of the Foreſter or Verderor, he ſhall be attached by four Pledges; and by the View of the Verderor the Oak ſhall be valued, and the Names of the Sureties ſhall be entred in the Roll of the Foreſters and Verderors.

For aſſarting or doing Purpreſture.

4. If any Perſon ſhall be found in the King's Demeſns aſſarting or doing Purpreſture, he ſhall be forthwith retain'd; but if without the Demeſns, within the Regard, he ſhall for the firſt Time be put to ſix Sureties; for the ſecond Time, he ſhall double his Pledges; and for the third, his Body ſhall be retained.

Of one offending *contra Vad. & Pleg.*

5. And he that is found attachable, contrary to his Sureties and Pledges, ſhall be diſtrained by his Chattels found within the Bounds of the Foreſt; and if he have none, he ſhall be detained, until Satisfaction; and if he live without the Foreſt, his Name, and the Name of the Town from whence he is, ſhall be inrolled.

Houſeboot to be delivered.

6. Delivery of Houſeboot and Heyboot ſhall be made, as the Wood may conveniently afford, and not at the Requeſt of the Demandant; neither may he give or ſell any of the Wood, without the King's Warrant.

Diſpoſal of a Deer found dead.

7. If any Deer be found dead, or wounded, there ſhall be an Inquiſition made by four of the next Villages in the Foreſt, which ſhall be entred in the Roll. The Finder ſhall be put by ſix Pledges, and the Fleſh ſhall be ſent to the Spittle-houſe, if there be any nigh; if none, then the Fleſh ſhall be given to the Poor, the Head and Skin to the Poor of the next Town, and the Arrow (if any be found) ſhall be preſented to the Verderor, and this to be inrolled in his Roll. (Yet it is ſaid, the Juſtice of the Foreſt may diſpoſe of it at his Pleaſure, *Manw.* 17.)

Of ſeizing and retaining Greyhounds.

8. If there be any Greyhounds running to do Hurt, the Foreſter ſhall retain them, and preſent them in the Preſence of the Verderors, and them to the King, or Chief Juſtice of the Foreſt.

Maſtiffs faſtning upon Deers.

9. If any Maſtiff be found upon a Deer, if he be expeditated, his Maſter ſhall be excuſed; but if not, his Owner ſhall be charged, and ſhall find ſix Pledges, and his Name, with a Deſcription of the Dog, ſhall be written down.

Deer-Stealers arreſted.

10. If any Perſon take a Deer in the Foreſt, his Body ſhall be arreſted, if found within the Limits of the Foreſt; and he ſhall not be deliver'd without the ſpecial Command of the King, or Chief Juſtice of the Foreſt.

Neglect of ſeizing ſuch Offenders.

11. He that ſees Offenders to take or carry away any Deer, he ſhall do what he can to ſeize them; and if he cannot, he

he ſhall make Hue and Cry; but if he neglect ſo to do, he ſhall be at the King's Mercy.

Forfeiture of a Wood-ward neglecting his Duty.

12. If any Woodward ſhall ſee Treſpaſſers within his Ward, or find any dead wild Beaſt, he ſhall ſhew him to the Chief Foreſter or Verderor; but if he neglect it, and the Foreſter find it out within the Precinct of the Regard, the Wood ſhall be taken into the King's Hands by Commandment of the King, or his Chief Juſtice, and the Wood-ward is to be attach'd by four Pledges.

How Owners of Woods may have Pawnage of Swine.

13. Such Perſon as hath a Wood near unto the King's Demeſn Wood, may (after that the Demeſn Hedges are agiſted) have in the time of Pawnage ſo many Swine as the Wood may allow, by the View of the Foreſters, Verderors, Regardors, Agiſtors, and other lawful Men.

The Juſtices Conſent for Agiſtment and Pawnage.

14. That in the time of Pawnage, when the Agiſtment ought to be made, the Foreſters, Verderors and Agiſtors, ought to have the Aſſent and Approbation of the Juſtices of the Foreſt, by their Letters, and the Agiſtment is to be made, as well within the Demeſn Hedges and Woods, as without, and the Letters are to be produced before the Juſtices in the next Circuit; and as much as may be is to be taken for a Hog, but for Pigs as uſual.

Strangers Cattle treſpaſſing within the Bounds of the Foreſt.

15. If any Perſon of another County wilfully put, or ſuffer his Cattle to go, within the Bounds of the Foreſt, the Foreſter may retain the Cattle by Sureties and ſafe Pledges; which if he cannot do, by the Teſtimony of the Verderors, he ſhall Inform the Sheriff of the County thereof, that he may make Diſtreſs until he find Pledges; and if the Sheriff do it not, then the Foreſter ſhall inform the Juſtices thereof.

Mowers bringing great Dogs.

16. No Mower ſhall bring with him a great Maſtiff, to drive away the King's Deer; but little Dogs, to look to Things without the Covert.

Privilege of keeping Dogs.

17. Nothing, without the King's Warrant, ſhall be done to ſuch as claim the Privilege of keeping Dogs and Greyhounds unlawed within the Foreſt.

Of a Wood remaining in the King's Hands.

18. A Wood remaining in the King's Hands by a Year and a Day, is in the King's Pleaſure, except it be recovered by the Judgment of the Juſtices.

Whole are all the Bounds.

19. All the Bounds of the Foreſt are wholly the King's (i. e. *quoad Juriſdictionem & Imperium, & non quoad Dominium*, 4 Co. Inſt. 318.)

Liberty to an Abbot.

20. By this Article, a Liberty was reſerved to the Abbot of the Borough of St. *Peter*, to hunt in the Foreſt, and to unlawed Dogs.

How an Inqueſt is to be ſigned, and preſented.

21. When Verderors have taken an Inqueſt, one of them muſt ſet to his Seal, and the other muſt keep the Roll; and ſo from Time to Time, until the coming of the Juſtice: Then the firſt Day he and all the Miniſters are to preſent the Roll, or elſe they ſhall be amerced; and Mainpernors that Day are to be tendred for Matters of the Foreſt, or elſe they ſhall incur a Seiſure.

Attachment for cutting Boughs.

22. If a Man be attach'd for cutting of Boughs, that Plea appertaineth to the Swainmote before the Steward; but if for felling an Oak in the Demeſn of the King, or of any other Perſon, it is to be tried before the Juſtice: And if he do it in the Night-time, he ſhall be impriſoned.

For felling of an Oak.

Acquittal of a Perſon only attach'd.

23. If a Perſon be attached for Greenhue, and not preſented at the Swainmote; if it be at another Time, he ſhall be acquitted, and it ſhall be looked upon as the Foreſter's Default and Concealment.

Forfeiture of Office by Foreſter.

24. If a Foreſter do agree unto an Offence in the King's Demeſn Woods, the King ſhall take from him his chief Office, if the Keeper be living. And becauſe the King's Foreſt is waſted at every *Iter* of the Juſtice of the Foreſt, they ſhall pay to the King half a Mark.

Abridgment of other Ordinances and Statutes.

Impriſonment of Treſpaſſers denied to the Lords.

BY *Stat. Merton, cap.* 11. *Anno* 20 *H.* 3. It appears the Lords demanded the Impriſonment of Treſpaſſers in their Parks and Ponds; but it was then denied by the King, and ſo deferred.

Relief therein granted.

But by *Weſtm.* 1 *cap.* 20. 3 *Ed.* 1. Treſpaſſers in Parks and Ponds ſhall pay treble Damage to the Party grieved, ſuffer Three Years Impriſonment, be Fined at the King's Pleaſure, and give Surety never to offend in the like Manner again; and if they cannot find Surety, they ſhall abjure the Realm; and if they become Fugitives, they ſhall be outlaw'd.

Abjuration, and Outlawry.

When a Foreſter kills a Treſpaſſer.

By *Stat.* 21 *Ed.* 1. Neither a Foreſter, Parker, or Warrener, nor their Aſſiſtants, ſhall be queſtion'd for killing a Treſpaſſer; who (after the Peace cried unto him) will not yield himſelf, ſo it be not done out of ſome other former Malice.

Perſons having *Purlieu*, loſe their Common.

Ordinatio Foreſtæ, 33 *Ed.* 1. *Stat.* 5. Thoſe to whom the King hath granted *Purlieu* (whereby their Words are diſafforeſted) ſhall be quit of the Charge of the Foreſt, but then they are to have no Common there: Howbeit, ſuch as are willing to return their Woods into the Foreſt, ſhall enjoy Common and other Eaſements there as they did before.

Presentments of Trespasses at the Swainmote.

By an Ordinance, made *Anno* 34 *Ed.* 1. *Chap.* I. Presentment of Trespasses, of Green-Hue, and Hunting in Forests, shall be made at the next Swainmote by the Foresters, within their several Baily-wicks, before the Foresters, Verderors, Regardors, Agistors, and other Ministers of the Forest; and they shall be also inquired of, as well by the Oaths of Knights, as other lawful Men (not suspected) of the neareſt Parts where the Trespasses were committed: And the Presentments so inquired of shall be solemnly confirm'd, and sealed by the Seals of the said Ministers; and if the Indictment be made otherwise, it shall be utterly void.

What Indictments to be void.

Under Officers to be made.

Chap. II. If any Officer die, or be otherwise hindred, that he cannot be present at the Swainmote, the Justice of the Forest, or his Lieutenant, shall put another in his Place, that the Indictment may nevertheless be made by all, in the Form aforesaid: Also Officers which are to be placed, shall be put as hath been used, except the Verderors, who shall be ordain'd by Election or Writ.

Verderors, by Election, *&c.*

Not to be put upon Foreign Inquests.

Chap. III. No Minister of the Forest shall be put upon any Assize, Jury or Inquest, to be taken without the Forest.

Officers surcharging the Forest.

Chap. IV. No Officer of the Forest shall surcharge the Forest, in Pain to be imprison'd by the Justice of the Forest, or his Lieutenant; and he by whom they were placed, shall be also punish'd at the King's Pleasure. And at every Swainmote, Enquiry shall be made of Surcharges, Foresters, and other Ministers there, and of Oppressions done to the People, that Reformation may be made.

To be enquired of at the Swainmote.

Of former Trespasses committed.

Chap. V. That Trespasses committed in Grounds disafforested should be pardon'd, yet so as the Hedges and Ditches should be cast down and removed, saving the King's Arrentations, which should remain according to the Assize of the Forest: Also, That the Wood fell'd in the Forest should be carried away; but that standing, though sold, should be preserved.

Fines therefore to be taken.

Chap. VI. That the Justice, or his Lieutenant, should take Fines and Amercements of the Persons indicted for Trespasses there, and should not tarry for the Eyre: And that Commoners restrain'd from their Commons by the Perambulation, should be restored to them again, saving the King's Arrentations as aforesaid.

Commoners restored.

Of the Ord. Forest, 34 *Ed.* 1. made by the King only.

By 4 *Co. Inst.* 292. It is said, this Ordinance being made by the King only, without Authority of Parliament; albeit it was in Affirmance of the Law, did not bind, and therefore was not executed: And that it was but an Ordinance or Declaration made by King *Ed.* 1. appeareth expresly by the Statute of 1 *Ed.* 3. And by that Act of 1 *Ed.* 3. the said Declaration is rehearsed as a Law; the Observation whereof (says he) is also an excellent Preparation for a Justice-Seat.

Trespassers taken in the Manner.

Anno 1 *Ed.* 3. *Stat.* 1. *Cap.* 8. None shall be taken or imprison'd for Vert or Venison, unless he be taken with the * Manner, or else indicted, according to the *Stat.* 34 *Ed.* 1. and then the Warden of the Forest shall let him to Mainprize until the Eyre of the Forest, without taking any Thing for his Deliverance; and if the Warden will not so do, he shall have a Writ out of the *Chancery* of Old, ordained for Persons indicted, to be bail'd till the Eyre.

* *Note:* 'A Trespasser with the Manner 'may be of Four Sorts for Venison, *viz.* Dog-draw, or Staple-stand, 'Back-bear, and Bloody-hand; and 'of Two Sorts for Vert, *viz.* Cutting of it, and carrying of it away.

Such Trespassers are to be let to Mainprize.

Else they may have an Attachment to the Sheriff against the Warden, *&c.*

And if the Warden, after the Writ served, deliver not the Person indicted to Mainprize, the Plaintiff shall have a Writ out of the *Chancery*, directed to the Sheriff, to Attach the Warden to answer his Default before the King at a certain Day; and then the Sheriff (the Verderors being called to him) shall deliver the Person indicted by good Mainprize, in the Presence of the said Verderors, and shall deliver the Names of the Mainpernors to the said Verderors, to answer in the Eyre before the said Justices. *Ibid.*

And the Warden may be punished.

And if the Warden thereof be attainted, he shall be awarded to pay treble Damage to the Party grieved, committed to Prison, and ransom'd at the King's Will. *Ibid.*

Charters confirm'd.

Anno 1 *Ed.* 3. *Stat.* 2. *Cap.* 1. The Great Charter, and also that of the Forest, are confirm'd; and enacted, That the Perambulations of Forests should continue as they were bounded in the Time of *Edward* the First, and that every County should have a Charter thereof, and where they were not bounded, it should be then done, and that a Charter thereof should be also made accordingly.

The Perambulations and Boundaries continued.

Owners may take House-Boot, *&c.* in their Woods

Anno 1 *Ed.* 3. *Stat.* 2. *Cap.* 2. Every Man having Wood within the Forest, may take House-Boot and Hey-Boot in his said Wood, without being attached for the same by the Ministers of the Forest, so that it be done by the View of the Foresters. 4 *Co. Inst.* 299.

Foresters not to gather Victuals, *&c.*

Anno 25 *Ed.* 3. *Stat.* 5. *Cap.* 7. No Forester or other Minister there shall, against any Man's Will, gather any Victuals, or other Thing by Colour of his Office, but what was due of Old Right.

How a Jury shall give up their Verdict.

By *Stat. Anno* 7 *Rich.* 2. *Cap.* 3. A Jury, for the Trial of a Trespass within the Forest, shall give up their Verdict where

where they receiv'd their Charge, and ſhall not by Menace or otherwiſe be conſtrain'd to give their Verdict of a Treſpaſs done in the Foreſt, otherwiſe than their Conſcience will clearly inform them.

Impriſon'd when indicted, or taken with the Manner.

By *Stat.* 7 *Rich.* 2. *Cap.* 4. No Officer of the Foreſt ſhall take or impriſon any without due Indictment, or *per main Ovre*, with his Hand at the Work, (that is, being taken with the Manner) or treſpaſſing in the Foreſt; nor ſhall conſtrain any to make Obligation of Ranſom againſt his Will, and the Aſſize of the Foreſt, in Pain to pay the Party grieved double Damages, and be ranſomed at the King's Will.

When Owners of Woods may keep them ſeveral, *&c.*

By *Stat.* 22 *Ed.* 4. *Cap.* 7. If any having Woods in his own Ground within any Foreſt, Chaſe or Purlieu, ſhall cut, or cauſe the ſame (or any Part thereof) to be cut by the King's Licence, (where ſuch Foreſts, Chaſes, or Purlieus, are his) or without Licence, (where they belong to others) he may keep them ſeveral and incloſed during Seven Years next after their Felling.

For the [illegible] Sea[illegible]

By *Stat.* 32 *Hen* 8. *Cap.* 35. Every Juſtice of the King's Foreſts, Chaſes and Parks, by Writing under the Seal of his Office, may make as many Deputies as he pleaſes; which ſhall have like Power as the Juſtice himſelf hath.

De[illegible]

Of Keeping of Dogs within the Foreſt, and of Lawing, Hambling, or Expeditating Maſtiffs, &c.

Who may keep Maſtiffs that are expeditated.

FRom what is before cited concerning the Laws of the Foreſt, it may be obſerved how ſtrict and ſevere they are againſt keeping great Dogs and Maſtiffs within the Bounds and Limits thereof: Yet having a Reſpect to the neceſſary Uſe and Service of ſuch Dogs, for the Preſervation of Men's Houſes and Goods, therefore it is allowed, That Farmers and ſubſtantial Freeholders may keep Maſtiffs, for the Defence of their Houſes within the Foreſt, provided ſuch Dogs be expeditated, and duly Lawed for ſuch a Tolleration.

The Manner of Expeditating.

The Way of Expeditating of Maſtiffs or great Dogs, is done after this Manner; *viz.* Three Claws of the Fore-Foot are cut off by the Skin; and this, by ſetting one of his Fore-Feet upon a Piece of Wood of about 8 Inches thick, and a Foot ſquare, and with a Mallet (ſetting a Chiſſel of Two Inches broad upon the Three Claws of his Fore-Foot) to cut them off at one Blow.

When and where to be.

And this Expeditating (formerly called Lawing or Hambling of Dogs) is to be inquired of by the Regarders of the Foreſt every third Year; and after they have made their Inquiry, and delivered their Verdict in the Court of Swainmote, at the next Court of Attachment holden after ſuch Court of Swainmote, the Maſtiffs are to be expeditated, and the Owners of ſuch Maſtiffs, as were return'd in the Regardor's Inquiſition to have been kept in the Foreſt unexpeditated, are to be amerced 3 *s.* to be levied of the Goods and Chattels of the Owners, and to be paid to the Verderors, for the Uſe of the King.

If ſuch Dogs chance to faſten on the Deer.

And whereas by the Laws of the Foreſt, If any Maſtiff that is expeditated be found upon a Deer, yet the Owner of ſuch Maſtiff ſhall be quit of the Fact: This makes it appear, That the Inhabitants may keep Maſtiffs expeditated, tho' they ſhould chance to faſten upon the Deer of the Foreſt.

When a Dog unexpeditated does Hurt.

And it is further provided by the Laws of the Foreſt, That if any Maſtiff kept therein unexpeditated, do hurt or kill any wild Beaſt of the Foreſt, the Owner ſhall be puniſhed for ſuch Offence according to the Quality thereof, beſides the Forfeiture of 3 *s.* for keeping ſuch Maſtiff unlawed.

The King's Grantee may keep Maſtiffs, *&c.* unexpeditated.

Notwithſtanding, it alſo appears by the Laws of the Foreſt, That he who hath a lawful Claim by good Title, may keep Maſtiffs within a Foreſt unexpeditated; ſo by the like Claim he may keep Greyhounds. And although Greyhounds and Spaniels are generally, and Maſtiffs unlawed are expreſly, forbidden to be kept within a Foreſt; however there is thought to be leſs Danger in Maſtiffs than from Greyhounds, and yet there is no Law to expeditate the latter, becauſe they are forbidden to be kept within the Foreſt: Therefore no Perſon may keep any of them there, except ſuch as have obtain'd Grants from the King for that Purpoſe.

Drift of the Foreſt.

To what End and Purpoſe the Drift of Foreſt is made.

THere is alſo a Law, by *Stat.* 32 *Hen.* 8. *Cap.* 35. made for the Drift of the Foreſt; by the Officers taking an exact View or Examination once, twice, or oftner in the Year as Occaſion ſhall require, what Beaſts there

are

are in the Foreſt, to the End, that the Common in the Foreſt be not overcharged; That Beaſts of Foreigners that have no Common there may be avoided; That Stoned Horſes under 15 Hands high, and infected Cattle, may be put out; and other unprofitable Beaſts, as Mares, Filly-foles or Foles, and Geldings, that ſhall be thought not able, nor like to grow to be able, to bear Foles of reaſonable Stature; or not able, or not like to grow to be able, to profitable Labours, may be deſtroyed at the Diſcretion of the Drivers. See the *Stat. & vide Manwood, fol.* 27. *& eund. cap.* 15. *&* 4 *Co. Inſt.* 309. See more at the latter End of this Treatiſe of a Penalty, by 9 *&* 10 *Wil.* 3. for not making Drifts of the Foreſt.

Of the Courts belonging to the Foreſt; of the Judges thereof, and the Officers attending the ſame.

Three Principal Courts.

THere are Three Principal Courts uſually kept for the Matters of the Foreſt, *viz.*

I. The Court of *Attachments* (or *Woodmote*-Court.)

II. Court of *Swainmote.*

III. The High Court of the Lord Juſtice in Eyre of the Foreſt, commonly called, *The Juſtice-Seat.*

Note: Co. Inſt. 4. *fol.* 289. *cap.* 73. mentions the Court of *Regards*, or Survey of Dogs, to be holden every third Year. *Chart. de Foreſt. cap.* 6.

And theſe Three ſeveral Courts are each of them of a ſeveral Nature. Of different Natures.

I. *The Court of* Attachments.

1. The Court of *Attachments.*

This Court is the moſt Inferior of them all, and cannot determine the Offence or Treſpaſs of the Foreſt, if the Value thereof be above 4 *d.* for all above that Value muſt be inrolled in the Verderor's Roll: So that the Officers of this Court have little more to do than to receive the Attachments of the Foreſters, and inroll them in the Rolls of the Verderors, to have them in a Readineſs againſt the Time that the Court of Swainmote is kept, there to have an orderly Trial according to the Laws of the Foreſt.

The Officers Buſineſs there.

Conviction to be at the Court of Swainmote, *&c.*

And notwithſtanding the greateſt part of all the Preſentments do firſt begin in this Court, yet they cannot proceed farther therein; neither is a Preſentment in this Court any Conviction againſt the Offender, becauſe he may traverſe that Offence until it hath paſſed the Court of Swainmote, to which all Treſpaſſes preſented at the Court of Attachments muſt neceſſarily proceed, before the Offenders can be puniſh'd, or ſtand convicted, as Guilty in Law, of their Offences. *Vide Poph. Rep.* 150. *Manw.* 400, &c.

This Court of Attachments is kept by the Verderors, and therefore ſometimes called the Verderors Court: And yet at this Court all the Foreſters, and other Officers and Miniſters of the Foreſt, ought to appear and give their Attendance: And here the Woodwards muſt preſent all Offences committed within their Charge, and the Death of wild Beaſt of the Foreſt to the Chief Foreſter or Verderor; but they cannot attach Offenders, or make any Attachment, for that muſt be left to the Foreſters, whoſe Office it is to perform the ſame.

Officers to appear at this Court of Attachments.

Woodwards to preſent, *&c.*

But cannot make Attachments.

The Words of a Preſentment in the Court of Attachments are, *Præſentat' eſt per Foreſtarios*, &c.

II. *The Court of* Swainmote.

2. The Swainmote-Court.

THough this Court is much Inferior to the *Juſtice-Seat*, yet it is higher than the Court of *Attatchments*; for when the Preſentments of the Court of Attachments and Swainmote have had their Proceedings, (which are chiefly to preſent Agiſtors, Regardors, *&c.*) yet cannot the Court of Swainmote determine the ſame, or aſſeſs Fines for any of the Offences ſo preſented, or give any Judgment thereupon, other than to pronounce them convicted: But the ſame Preſentments and Convictions muſt be delivered in to the Lord Juſtice in Eyre, at the Court of Juſtice-Seat, on the firſt Day of that Court's Sitting, when the ſame are called for, according to the Laws and Ordinances of the Foreſt.

Here the Conviction of Offenders is pronounced.

And to be delivered over.

The Plea of the Foreſt runs thus; *Præſentatum per Foreſtarios, & convictum per Viridarios.* Alſo, the Swainmote is a Court unto which all the Freeholders within the Foreſt do owe Suit and Service: And there ought to be a Steward at every Swainmote, *per Aſſiſ. & Conſ. Foreſt.* 22.

Who owe Suit and Service here.

And *Note*, That by the Charter of the Foreſt, *cap.* 8. the Court of Attachments are to be kept every Forty Days

When the Two Courts are to be kept.

Days throughout the Year, and the Court of Swainmote thrice in the Year; and these Two Courts are but as it were Two Hands to deliver Matters to the Court of Justice-Seat, that from thence Judgment may be had.

Judges.

Chief Warden.

The Verderors are the Chief Judges of the Swainmote, although the Chief Warden of the Forest or his Deputy doth usually sit there; but, it seems, not as any Judicial Officer, for that no Judicial Officer may by the Common Law make a Deputy. And though they are the Judges, yet 'tis observable that the Presentments there are as well by them as Verderors, as by the Foresters, Keepers, Regardors and Agistors. *Vide Manw.* 410.

What Ministers, *&c.* to appear at the Swainmote.

At this Day all the Officers and Ministers of the Forest ought to appear at every Swainmote; not only the Verderors, Regardors, Agistors, Wood-wards, and all other Persons within the Circuit of the Forest, which are Freeholders; but also out of every Town and Village within the Forest, Four Men and a Reeve: And if any of these make Default, he shall be amerced, and such Amercement estreated to the Chief Warden of the Forest, to levy the same by Distress.

Reeve.

By the Words, Ministers of the Forest are intended the Stewards of the Court of Swainmote, who ought to be Men of Learning, and well skill'd in the Laws; for that some Pleas of the Forest are triable in the Court of Swainmote only: As if a Man be attached for cutting of Boughs within the Forest, that Plea appertains to the Court of Swainmote before the Steward there, as appears by the Assizes and Customs of the Forest, *cap.* 22.

Stewards of the Court.

Some Pleas determinable in this Court.

III. *Of the Court of* Justice-Seat.

3. The High Court of *Justice-Seat.*

THIS is the chiefest and most Supreme Court of the Forest, wherein the Lord Chief Justice, or Justice of the Forest, doth sit; unto whom it belongs to give Judgment of all Offences, and to assess Fines, and punish the Offenders, as in Part is before observed. And this Court, it's said, cannot be kept oftner than every third Year. *Co.* 4. *Inst.* 291.

To be kept every Third Year.

The Lord Chief Justice of the Forest.

The Lord Chief Justice of the Forest, is usually a Noble Peer of the Realm, and it's said, may keep his Court at any Place out of the Forest. 1 *Cro.* 405. That he hath an absolute Authority appointed to determine Offences committed within the King's Forests, either in Vert or Venison; and the same Offences are to be determed before him, and not before any other Justices, except such as are appointed by his Majesty's Commission to assist him therein. *Vide* 4 *Co. Inst.* 291. where it's said, the King by Patent grants unto him *Officium Gardiani Capitalis Justiciariii*, &c. *habend' & exercend' officium prædict' per se vel per sufficien' Deputatum suum*, &c.

His Assistants.

Justiciar' citra Trentam.

That there is but one Chief Justice of the Forest on this side *Trent*, and he is named, *Capitalis Justiciarius itinerans Foreſt'*, &c. *citra Trentam.*

Justiciarius ultra Trentam.

And that there is another *Capitalis Justiciarius*, and he is *Itinerans omnium Foreſt'*, &c. *ultra Trentam*, who hath usually Assistants associated to him; and therefore, when Justice-Seats are to be holden, the King appoints Associates to the Chief Justice, who, together with him, may determine all Pleas of the Forest, with a Patent of *Si non omnes*, &c. and a Writ *de Admittendo*, &c. And the Chief Justice of the Forest, and these Associates, are named *Capitales Justiciarii Forestæ*; and they are named *Capitales*, in respect of the Verderors and others, that to some Purposes have Judicial Places. 4. *Co. Inst.* 314.

The Justice's Associates.

Capitales Justiciarii.

Chief Warden.

The Chief Warden of the Forest appears to be a great Officer, but yet he is no Judicial Officer: However he seems to be next to the Justice of the Forest, as appears by his being appointed next to him, to bail and discharge Offenders, and in some Matters he is named first; also he hath a Deputy or Lieutenant. *Vide Manw.* 33. & 462, 463.

Where a Forest is appendant to a Castle. *Constabular & Custos.* 4 *Co. Inst.* 312.

It is to be observed, says 4 *Co. Inst.* 313. That where the Forest of *Pickering* was appendant or belonging to the Castle of *Pickering*, that he that is the Constable of the Castle, is ever by the Law of the Forest, Chief Warden of that Forest; and so it is of the Forest of *Windsor*, belonging to *Windsor* Castle; of the Forest of *Rockingham*, belonging to the Castle of *Rockingham*; and all other Forests belonging to Castles.

The Office of Chief Warden, *&c.*

And in 4 *Co. Inst.* 299. it is said, The Chief Warden, Chief Justice, and Justice *Itinerant*, are to deal concerning the Preservation and Maintenance of the Game, in respect of the Shades, Coverts, Pawnage, and such-like, for Deer.

Custos totius Forestæ.

Also Mr. *Manwood*, *cap.* 25. observes, That there were also Two other Great Officers belonging to the Forest; the one called *Custos totius Forestæ*, (this seems to be the Chief Warden) and the other *Supervisor Forestariorum.*

Supervisor Forestariorum.

Proto-forestarius.

Also it is said, *Proto-forestarius* was heretofore a great Officer in *Windsor* Forest.

High Steward.

Under Steward.

See at the latter End of this Treatise, concerning an Act made 9 & 10. *Wil.* 3. *cap.* 36. and therein of the Payment of Penalties to the High and Under Steward of *New* Forest.

Of the Inferior Miniſters, *&c.*

And here Occaſion is offered to ſpeak of the Inferior Officers and Offices, and other Miniſters of the Foreſt, whoſe Perſonal Attendance is required at the ſaid Courts, for putting the Foreſt Laws in Execution. Such are the Vederors, Regardors, Agiſtors and Foreſters, *&c.*

A Verderor.

A Verderor's Place and Office.

A Verderor, *Veredarius a viridi*, Vert or Green-Hue, for that his Office principally is concern'd in looking to the Vert or Green, and to ſee that it be maintain'd: He is farther deſcribed to be a Judicial Officer of the King's Foreſt,

How choſen.

choſen by the King's Writ in the full County Court of the Shire where the Foreſt is, and ſworn before the Sheriff to maintain and keep the Aſſizes or Laws of the Foreſt; and alſo to View, Receive, and Inroll, the Attachments and Preſentments of all manner of Treſpaſſes of the Foreſt, relating to Vert and Veniſon. 4 *Co. Inſt.* 292. And there are

Four in a Foreſt.

moſt commonly in every Foreſt, Four of theſe Officers.

How his Office reſembleth that of a Coroner.

The Office of a Verderor much reſembles that of a Coroner, eſpecially in this Reſpect; That as a Coroner, upon Notice of a Perſon ſlain, is to go to and View the dead Body, and to make Inquiry, by the Oath of 12 Men, how and by what Means the Perſon came to his Death, and who or what was the Occaſion thereof: 4 *Co. Inſt.* 292. So it is the Duty of a Verderor, by his Office, to look after and view the wild Beaſts of the Foreſt; for if any of them be found ſlain, wounded or hurt, upon Notice given to the Verderor, he is to go unto and view the ſame, and cauſe an Inquiſition to be made by a Jury of 12 Men, out of Four of the next Towns to the Foreſt, to know how and by whom the ſame Beaſt was kill'd, wounded, or hurt. Alſo if an Oak, being Oververt, within the Foreſt, be fell'd or cut down out of the King's Demeſn Woods, the ſame is to be appraiſed by the View of the Verderors.

His View and Appraiſement.

His Office at the Court of Attachments.

The Office of the Verderor at the Court of Attachments is, to ſit there to ſee the Attachments of the Foreſt, as well of Vert as Veniſon, and receive the ſame of the Foreſters and others that preſent them there, and then to enter them in their own Rolls.

His whole Office conſiſts in Six Things.

The whole Office of a Verderor is ſaid to conſiſt in theſe Six Things, *viz.*

1. *Ad Videndum.*	1. To See, and to View.
2. *Ad Inquirendum.*	2. To Inquire.
3. *Ad Recipiendum.*	3. To Receive.
4. *Ad Imbreviandum.*	4. To Inroll.
5. *Ad Judicandum.*	5. To Judge.
6. *Ad Certificandum.*	6. To Certify.

Manwood, L. For. 407. but 4 *Co. Inſt.* 292. mentions only, That he is to View, Receive and Inroll, and to do equal Right and Juſtice.

A Regardor.

The Office of a Regardor.

A Regardor is an Officer of the King's Foreſt, ſworn to make the Regard thereof, as the ſame had been uſed in former Time; and alſo to view and inquire of all the Offences of the Foreſt, as well touching Vert as Veniſon, and of all Concealments of Offences, or Defaults of Foreſters, and all other Officers of the Foreſt, concerning the Execution of their Offices.

His whole Office conſiſts in Four Things.

In the Words, *to make Regard*, is comprehended his whole Office, which conſiſt in Four Things, *viz.*

1. To See, or View.
2. To Inquire.
3. To Inroll.
4. To Certify.

} *Manw.* 421.

Conveniunt Rebus nomina ſæpe ſuis.

4 *Co. Inſt.* 291. ſays, a Regardor is derived from the *French* Word, *Regardeire*, to View or See, becauſe he cannot preſent any Thing but upon his own Sight and View; and he further adds, To ſpeak once for all, the Names of all the Officers from the higheſt to the loweſt, put them in Mind of their Duty.

Three Sorts of Regardors.

There are ſaid to be Three ſorts of Regardors, *viz.*

One made by Letters-Patents.

1. One made by the King by Letters-Patents, whereby the ſaid Office is ſometimes granted for Life, and ſometimes in Fee.

Another by the Chief Juſtice, or by Writ.

2. Another Sort made by the Lord Chief Juſtice in Eyre, or by Writ directed to the Sheriff; who is to exerciſe the ſaid Office during the King's Pleaſure only.

Another *pro hac Vice tantum.*

3. Another ſort of Regardors, made *pro hac vice tantum* for the preſent Service of the Court of Swainmote, or to ſerve ſome other Time in the Abſence of ſome of the Regardors that are ſick, or otherwiſe not able to ſerve at that Time. 4 *Co. Inſt.* 291.

Court of Regards, for Lawing Dogs.

4 *Co. Inſt.* 289. Mention is made of the Court of Regards, or Survey of Dogs, to be holden every Third Year, for Expeditating or Lawing of Dogs by that Court; the Manner whereof is beforemention'd in *Chart. de Foreſt. cap.* 6. *& aliter*, concerning Keeping and Lawing of Dogs, *&c.*

In 4 *Co. Inſtit.* 292. Eleven Particulars are ſet forth, which are to be made upon View of the Regardors.

1. The Firſt View mentioned, relates to Aſſarts.

2. To Purpreſtures in Woods.

3. To

3. To Purpreſture in Arable.
4. To Waſte of Woods.
5. To the King's Woods.
6. To the Hedges of the King.
7. Is General to all Purpreſtures, Aſſarts and Waſtes.
8. Relates to the Ayeries of Hawks.
9. To Forges and Mines.
10. To the Havens of the Sea.
11. Relates to Honey, *&c.*

And in this reſpect of View, it is ſaid, he is reſembled to a Coroner *ſuper viſum al'*.

That a Regarder may not officiate until he be ſworn by the Sheriff. *Manw.* 427.

A Foreſter.

A Foreſter is made by Letters Patents.

In Fee for Life, or *durante Beneplacito.*

Sometimes by Preſcription.

A Foreſter is an Officer of the King's Foreſt, made by Letters Patents, to hold his Office either in Fee, paying a certain Fee Farm-Rent yearly for the ſame; or elſe to have the ſame for Life, or *durante Beneplacito*: And ſometimes they claim to hold the ſame Office by Preſcription. And thoſe that are Servants to ſuch Foreſters, to look to the Foreſt, and attend the Deer for them, are not properly called Foreſters, but *Walkers*, or *Under-keepers*.

His whole Office conſiſts in Four Things.

The whole Office of a Foreſter doth conſiſt in theſe Four Things:

To { Preſerve—the Vert and Veniſon.
Watch —and be careful in attending their Preſervation.
Attach —Offenders or Treſpaſſers in the Foreſt.
Preſent —the Offenders and the Attachments he has made, at the Forty Day Court, and at the Court of the Swainmote, according to the Aſſizes and Laws of the Foreſt. *Manw. L. For.* 429.

But 4 *Co. Inſt.* 293. ſaith, His Duty appeareth by his Oath, and it conſiſteth of five Parts: 1. That he will be true to the Maſter of the Foreſt. 2. That he will truly Walk and Watch. 3. To Attach and Preſent all Treſpaſſes. 4. To keep the King's Counſel, and that of Himſelf and Fellows. 5. No Concealment to make for Favour or Dread, but truly to behave himſelf in his Office, *&c.*

Where the Foreſter may rechaſe the wild Beaſts into the Foreſt.

The Foreſter alſo hath an Authority to follow the wild Beaſts that eſcape out of the Foreſt, and to rechaſe them back again: But this Power is reſerved to him only for ſuch Foreſts as have no Pourallees; for where there are Pourallees belonging to the Foreſt, there are alſo Rangers, whoſe Office is purely to rechaſe the wild Beaſts into the Foreſt; and in ſuch Caſe the Foreſters are not to meddle, unleſs that ſuch Foreſters do follow them with freſh Purſuit within their View.

If no Rangers.

4 *Co. Inſt.* 293. ſaith, He is taken for a Woodward, not only of the King, within his Foreſt, but *ex vi Termini* of any Subject of his Woods whereſoever they lie.

A Woodward.

The Office of a Woodward.

A Woodward is an Officer attending the Woods in the Foreſt, and he is alſo to preſent at the Court of Attachments, all the Offences done within his Charge; but he cannot make any Attachment, nor attach any Offender within his Charge: For the Words of the Aſſizes, and Cuſtoms of the Foreſt, *Articulo* 12°, are, That if he ſhall ſee a Treſpaſſer in his Ward, or a Beaſt dead, he ought to ſhew it to the Chief Foreſter or Verderor: So that it ſeems he may preſent Offenders, but not attach them.

A Beadle of the Foreſt.

The Office of a Beadle is to make Summons and Proclamations.

He is an Officer or Servant that doth Warn or Summon all Perſons to appear at the Courts of the Foreſt; he is alſo to make all manner of Proclamations, as well within the Courts of the Foreſt, as without; and executes all the Proceſs of the Foreſt, as Bailiffs of Liberties, or Itinerant of the Sheriff doth in his County.

An Agiſtor.

The Office of an Agiſtor.

To take Cattle into the Foreſt to agiſt.

He is an Officer that doth attend upon the King's Woods and Lands in the Foreſt, to receive and take in the Beaſts and Cattle of every Perſon, being an Inhabitant of the Foreſt, that may for their Money (and for the King's Benefit and Profit) have Common of Herbage there for ſuch Beaſts as are commonable within a Foreſt: And this taking in of Cattle to Paſture or Feeding by the Week, Month, or otherwiſe, is called *Agiſting of Cattle*; and the Common of Herbage is called *Agiſtment*.

Agiſtment, what.

1. Agiſtment of the Herbage.
2. Agiſtment of Woods, *&c.*

How conſtituted, *&c.*

And it is to be noted, That Agiſtment is in two Sorts, *viz.* The Agiſtment of the Herbage of Woods, Lands and Paſtures; and alſo the Agiſtment of the Woods and Hedge-rows, which is called Pawnage, for the Feeding of Hogs or Swine with the Maſt of the Woods.

This Officer, it's ſaid, is conſtituted by the King's Letters Patents; and of theſe, in ſuch Foreſts where there is any Pawnage, there are Four in Number. 4 *Co. Inſt.* 293.

Difference between Pawnage and Agiſtment.

And therefore this is the Difference between Pawnage and Agiſtment; That Pawnage is the Agiſtment of the Maſt of

of the Trees, or the Profit that is made of it; and Agistment is the Herbage of the Ground, or the Profit that is made thereof.

A Ranger.

A Ranger is by Letters Patents.

Tho' he is not properly an Officer in the Forest, yet he is a considerable Officer of and to the Forest, his Charge being only concerning the Venison coming out of the Forest into the Pourallees.

Fee Deer.

He is appointed by the King, or his Chief Justice in Eyre, and made by Letters Patents under the Great Seal, with a yearly Fee, payable out of the Exchequer, as also certain Fee Deer, both Red and Fallow, to be taken annually out of the Forest, at proper Seasons of the Year.

How he is to rechase out of the Pourallees.

By the Oath of his Office, he is to rechase, and with his Hounds drive back the wild Beasts of the Forest, as often as they range out of the same into his Pourallee.

And to present Offenders.

He is to present all unlawful Hunting and Hunters of wild Beasts of Venary and Chase, as well within the Pourallees, as within the Forest; and his Presentments are to be made at the next Court of Attachments or Swainmotes, which shall first happen.

Now we will return to the High Court of Justice-Seat, and the Lord Chief Justice of the Forest.

The Honour and Authority of the Lord Chief Justice.

The Office of the Lord Chief Justice of the Forest (as before observ'd) is a a Place of great Honour and Authority, always executed by some of the Chiefest of the Nobility, who is of the King's Privy-Council. And when he is made Lord Chief Justice in Eyre of the Forest by the King's Special Commission, he hath thereby as great an Authority (if not greater) as any Justice of Oyer and Terminer hath, to hear and determine Matters at Common Law: For then he may punish all Trespasses and Offences of the Forest, according to the Laws of the same; and may hear and determine all Claims touching the Liberties and Franchises within the Forest, as to have Parks, Warrens and Vivaries therein; also of them that claim to be quit of Assarts and Purprestures, or of such as do claim Leets, Hundreds, Goods of Felons, Fugitives and Outlaws, *Felo's de se*, Waifs, Estrays, Deodands, and such-like Immunities, and other Liberties within the Forest. As also of such Persons that claim to kill Hares, and other Beasts of Chase and Warren within the Forest. *Note*, the Chief Justice was anciently created by Writ, as other Justices in Eyre were; but now by *Stat.* 27 *H.* 8. *Cap.* 24. he is to be created by Letters Patents. *Co.* 4 *Inst.* 291.

When made by special Commission.

May punish all Trespasses, and may determine all Claims, *&c.*

He is to be created by Letters Patents.

The Statute of 32 *H.* 8. *Cap.* 35. before cited, did authorize such Lords Chief Justices to make Deputies to execute their Office, by Writings or Instruments under their Hands, and sealed with the Seals of their Offices, and not otherwise: But there is no such Power given by any Statute to the Chief Warden of the Forest, to make any Deputy to execute his Office. And notwithstanding, there are commonly two Deputies in every Forest, which are called Lieutenants, *viz.* The Lieutenant of the Lord Chief Justice, or Lord Justice in Eyre of the Forest, and the Lieutenant of the Chief Warden of the Forest.

He may make Deputies by Statute-Law.

Aliter, of the Chief Warden, and yet he hath a Deputy, *&c.*

Proceedings by the Justices, &c.

Proceedings by the Justices.

After the Commissions for holding the Court of Justice-Seat of the Forest are given out, the Justices make out their Precept to the Sheriff of the County wherein the Forest lies, and the Justice-Seat is kept, commanding him to summon all the Prelates, Nobility, Knights, Gentlemen and Freeholders, that have Lands within the Bounds of the Forest, and out of every Town and Village, Four Men and a Reeve; and out of every Borrough Twelve Lawful Men, and all Persons that claim to hold Pleas of the Forest before the Justices, to appear at a certain Day and Place appointed, before the Justice in Eyre of the Forest, or his Deputy, to hear and do such Things as appertain to the Pleas of the Forest.

General Summons.

For all claiming Liberties, *&c.* to appear.

Also Persons attach'd, and their Pledges.

Also the Sheriff and his Bailiffs.

Proclamation by the Sheriff.

And likewise, that the said Sheriff do make Proclamation in all Boroughs, and other Towns, Fairs, Markets, and publick Places throughout his Bailiwick, That all Persons who claim to have any Liberties, Franchises or Free Customs of the Forest, may be there, at the Time and Place appointed, to make good their Claims; and that all Persons attached since the last Court, touching Vert or Venison, and their Pledges and Mainpernors, who had a Day given them until this Court for their Appearance, be there also, to stand to and abide the Judgment of the Court; and that the Sheriff be there with his Bailiffs to execute and certifie those Things which appertain to his Office.

Day of Warning to Officers, *&c.*

Upon this General Summons, a reasonable Day of Warning, by the Space of Forty Days at the least, is usually given to the Officers, and all other Persons that are to appear at this Court, to hold their Sessions

Seſſions in, in the ſame Manner as the Juſtices at large do; and they may hold Pleas of *Quo Warranto*, as the other Juſtices do.

Another Summons to the Chief Warden, *&c.*

There is alſo another kind of General Summons, which the Juſtices of the Foreſt cauſe to be made to the Chief Warden or Keeper of the Foreſt, to warn all the Foreſters, Verderors, Regardors, Woodwards, and other Miniſters of the Foreſt, to come to the ſaid Court, and

For the Officers to bring in their Rolls and Attachments, *&c.*

bring with them all the Rolls, Writings and Attachments of the Foreſt, as well relating to Vert as Veniſon, made ſince the laſt Court, or left there undetermined; and that the Regardors do likewiſe come thither, and bring with them all the Regards made and inroll'd ſince the laſt Court. And that likewiſe the Agiſtors do appear there with their Attachments, and Rolls of Agiſtments, to perform ſuch their Duty concerning the ſame as ſhall be enjoin'd them, or which they ought to do, according to the Law of the Foreſt.

And other Perſons claiming of Liberties.

And alſo to cauſe all ſuch Perſons to appear at the ſaid Court, as claim any Liberties or Franchiſes within the Foreſt, to ſhew how, and by what Warrant, they claim the ſame.

All to appear in proper Perſon.

By theſe General Summons, all Perſons, whether they dwell within the Foreſt, or without, if they be ſummoned to appear at the Juſtice-Seat of the Foreſt, in reſpect of their Lands within the ſame, ought to appear in their own proper Perſon.

Except Claimers.

But all ſuch Perſons which are to appear there, in reſpect of making their Claims, to have any Liberties or Privileges within the Foreſt, may (at their own Elections) appear there, either in their proper Perſons, or by their Attornies lawfully conſtituted for that Purpoſe. *F. N. B.* 26. G.

All the Rolls of Offences, *&c.* to be preſented to the Lord Juſtice.

At this Court are to be preſented to the Lord Juſtice in Eyre, all the Rolls of ſuch Offences as have paſſed the Courts of Attachments and Swainmote, which are to be ſealed up by the Verderors, and kept for this Purpoſe.

The Puniſhment of ſuch as bring not in their Rolls.

And ſo great is the Charge for the Preſervation of theſe Rolls, That if any Officer or Miniſter that hath the Cuſtody thereof, (at ſuch Time as the Court of Juſtice-Seat is holden, their Heirs, Executors, Aſſigns, or Tenants of their Lands, in what County ſoever they be) do not bring in ſuch Rolls the firſt Day of holding the ſaid Court, there ſhall iſſue out a Precept to the Sheriff of the County where ſuch Lands do lie, commanding him, That the Wife and Children of ſuch Offender, being firſt by him turn'd out of Doors, he cauſe to be ſeized all the Lands and Tenements of ſuch Offender in his Bailiwick, ſo that he be reſponſible to the Lord Chief Juſtice in Eyre of the Foreſt, as to the Value of them, for a Year, unleſs the Tenants of ſuch Lands come before the End of the Year, and bring in the ſaid Rolls.

A Fine made for Rolls loſt.

Alſo ſuch is the Severity of the Laws of the Foreſt, touching this Matter, That if the Rolls of the Foreſt ſhould happen to be caſually loſt, yet the Officers by whom they were ſo loſt, their Heirs, Executors or Tenants, muſt make a Fine with the King for the ſame.

Or if burnt, or deſtroyed.

Or if it happen ſuch Rolls be burnt, or otherwiſe deſtroyed by the Common Enemy of the Nation, yet by the Laws of the Foreſt, that ſhall not avail for an Excuſe (though at Common Law it would be allowable); for in this Caſe, the Officer, in whoſe Cuſtody they were, or had the Charge of them by the Direction of the Court, muſt make his Fine for the ſame, or elſe his Land ſhall be ſeized. And ſo it is of Agiſtors, if they fail of their Rolls or Accompts.

The like of Agiſtors.

Verderors making Default, to be diſtrained.

And likewiſe if the Verderors make Default at the Court of Juſtice-Seat, they ſhall be amerced for the ſame, and diſtrained by their Lands, to bring in their Rolls, Indictments, and other Writings relating to the Foreſt.

If a Verderor die.

By 4 *Co. Inſt.* 312. the Law of the Foreſt is, That if a Verderor die, his Heir is to bring in the Rolls of his Anceſtors Time.

If the Verderor alien, or die.

If the Verderor alien his Lands, or die ſeiſed, and no Man bringeth in the Rolls, then ſhall the Lands, by the Law of the Foreſt, be ſeized by the Sheriff, which the Verderor had, until the Rolls be brought in; and if the Rolls be loſt, then till he make his Fine, and have his *Ouſter le main*. Ibid.

If the Chief Warden die, *&c.*

And if the Warden of the Foreſt die, and his Heir or Tertenant bring not in the Rolls, *&c.* his Heir or Tertenant ſhall anſwer for the ſame. *Id.* 313.

How the Regardors muſt make their Regards.

Now before any Juſtice-Seat of the Foreſt can be holden, the Regardors muſt make their Regard, which is done by the King's Writ ſent by the Lord Juſtice in Eyre, to the Sheriff of that County where the Foreſt is, and in which the Court of Juſtice-Seat is to be kept, together with an Abſtract of all ſuch Matters as the Regardors ſhall enquire of: Who, when they have made their Range, and affirmed at the Courts of Attachments and Swainmote, ſuch Matters as they ſhall have found in their Survey, are to preſent the ſame under their Hands and Seals unto the Lord Chief Juſtice of the Foreſt, at the High Court of Juſtice-Seat.

To be firſt affirmed at the other Two Courts.

The Officers and Freeholders, *&c.* to be call'd.

Whereupon the Lord Chief Juſtice in Eyre, or his Deputy, being ſet in Court, together with his Aſſociates and Aſſiſtants, after the Commiſſion read, and the Officers of the Foreſt called over, order, That the Freeholders of the Foreſt be called, and ſuch other Perſons as were ſummoned to appear at that Time; out of which there is then cho-

And a Jury choſen.

ſen a ſufficient Jury, not under the Number of Eighteen, or exceeding Four and Twenty, and theſe of the diſcreeteſt Men.

And a Charge given them.

And the ſaid Jury being ſworn, then the Lord Chief Juſtice in Eyre, or his Deputy, or ſome other Perſon by his Appointment, skill'd in the Laws of the Foreſt, give in Charge to the Jury the chiefeſt Matters that they are to inquire of, and that in a ſummary Account, of the ſeveral Offences that have been committed againſt the Laws of the Foreſt. [Of which, there are ſome that reſpect the Court of Juſtice-Seat only; as the Account of Money received by the Verderors for Dogs kept unexpeditated. *Vid. Manwood's For. Law.* 114. The like for puniſhing Nuſances of the Foreſt, *Id.* 120, 121, *&c.* alſo unlawful Hunting in the Foreſt will be puniſhed at this Court, *Idem* 124. as alſo Offenders in the *Purlieu's* of the Foreſt, *Id.* 184, 185. *cum multis aliis.*] For which, ſee a Summary of the Charge afterwards.

In a Summary Account of the ſeveral Offences againſt the Laws of the Foreſt.

An Oath given by the Steward to the Inhabitants of the Foreſt, being aged Twelve Years, *&c.*

When the Jury have brought in their Verdict, and the ſame is recorded, the other Buſineſs being over, the Steward gives an Oath to the Inhabitants of the Foreſt, of the Age of Twelve Years and upwards; *That they ſhall be true Liegemen unto the King, to do no Hurt to the wild Beaſts, or any Thing elſe belonging to the Foreſt: Not to conceal any Offences committed by others, but to the utmoſt to reveal them unto the Officers of the Foreſt, or ſuch Perſons as ought to ſee the ſame redreſs'd.*

The Chief Juſtice his Certificate (or Report) made to the King.

After the Court of Juſtice-Seat is over, the Lord Chief Juſtice of the Foreſt certifies the King of the Offences committed in the Foreſt ſince the laſt Court before; and how the Offenders had been proſecuted, and what Officers had well diſcharged their Truſts, according to their Duties; and who had been remiſs therein, that they may be encouraged or diſcouraged according to their Demerits.

Demurrer.

Note, If a Demurrer happen between the King and a Subject, before the Chief Juſtice, *&c.* they may adjourn it into the *King's Bench*, there to be determined. *Itin. Pick. fo.* 21.

Revivor.

That if the Juſtice-Seat be diſcontinued by the not coming of the Juſtice, the King may revive it by Writ; likewiſe the Pleas of the Foreſt, if diſcontinued, may be revived by a Writ of Reſummons. *Ibid. fo.* 15. 4 *Co. Inſt.* 313.

Sticking to allow Liberties.

It is noted, That if the Juſtices of the Foreſt do ſtick at the allowing of any Man's Liberties that are claimed before them, then may the Party grieved have a Writ of Allowance, or a Writ to proceed to Allowance. *Itin. Pick. fo.* 182.

Making a long Stay, *&c.*

That where the Juſtice of the Foreſt doth ſtay over-long in allowing a Liberty that is claimed, then may the Party grieved purchaſe the King's Writ of Allowance, directed to the Juſtice of the Foreſt, commanding him to allow the ſame; as appears by the Tenor thereof. *Anno* 10 *E.* 3. *Itin. Lanc. fo.* 65.

Remedy.

Liberties allowed, how.

If at one Juſtice-Seat certain Liberties be allowed, at another Time the ſame Allowance may be pleaded; and the Record of the Allowance ſhall be ſent down by Writ unto the Juſtices. *Ibid.* 98.

When the Party, after a Claim, makes Default.

It is alſo noted, That if any Man do make a Claim, and do after make Default, their Liberty ſhall be ſeized into the Lord's Hands; for Default is a Cauſe of Seizure: As where a Woman, Tenant for Term of Life of a Park within the Foreſt of *Lancaſter*, made her Claim for that, and alſo for a Free Warren; and after, made Default: Whereupon one *L.* being Tenant in Reverſion, was receiv'd, and made Claim for both; and becauſe he did not ſhew good Matter to warrant his Title, it was adjudged, *Quod clauſus prædict' proſternatur & remaneat Foreſta, ut prius: Et quod Warrena prædict' capiatur in manus Domini*, &c. *Itin. Lanc. f.* 5.

Seizure.

False Claim only finable.

Yet it ſeems, that the Puniſhment for the Offence of making falſe Claim, is for the Party to make a Fine; but that which he ought to have, ſhall not be ſeized: As where a Prior having the Tenth of Veniſon *in Carne tantum*, claimed to have it as well *in Carne*, as in *Corio*; therefore he was in *Miſericodia de Decima Venationis ſuæ in Corio non percipiendo*, &c. *Itin. Lanc. f.* 3. 64. *Pick. fo.* 15. 4 *Co. Inſt.* 297.

Tythe of Veniſon.

If Claim be not made the firſt Day.

Finable.

It is noted, That ſuch as ought to make Claim, *&c.* by the Aſſizes of the Foreſt, they ought to put in their Claim the firſt Day of the Juſtice-Seat; or elſe at any Day after, their Claim ſhall not be receiv'd without Fine: And when the Claim is once put in, if it be faulty, and they are willing to amend, the Party muſt make Fine. *Pick. fol.* 10, 15, 69.

Where the whole Commonalty claimed under a Grant.

It is alſo noted, That all the Inhabitants within the Foreſt of *Lancaſter*, being Freeholders, did make Claim to be acquitted of all Manner of Vert, and of Regard, and divers other Things; and this Claim was allowed of in Eyre, by Reaſon that *J. T.* of *M.* being Lord of the Foreſt of *Lancaſter*, did by his Charter grant the ſame to them. By which it appears, that a Grant was made unto a Commonalty, and good; alſo, that a Subject may be Lord and Owner of a Foreſt.

A Subject may be Lord of a Foreſt.

See after, concerning Claims amongſt the Reſolutions and Notes.

Claim by Attorney.

By 4 *Co. Inſt.* any Perſon may make his Claim the firſt Day in Perſon, or by Attorney. And he that appears upon a Preſentment or Indictment taken before

fore the Juſtices in Eyre, and traverſeth the Indictment, may after appear by Attorney.

How Claims by Preſcription, Tenure and Grant, ſhall be tried.

In caſe one claim by Preſcription, by Tenure, or by Grant, to be Foreſter of Fee, and prayeth it may be enquired of by the Miniſters of the Foreſt; in this Caſe the Verderors, Regardors and Agiſtors, ſhall try the Title: But if he claim by Inheritance or otherwiſe any Profit *apprendre* within the Foreſt; as Common of Eſtovers, or a Paſture, or ſuch-like; the Trial ſhall be by the Foreſters, Verderors and Regardors, but not by the Agiſtors. But if the Matter of the Claim do require a Trial by the Country, then, 'tis ſaid, the Verderors, Regardors and Agiſtors, ſhall only try the Title: Yet 'tis in the Election of the Juſtices, whether the Miniſters of the Foreſt, with other lawful Men, may be impannell'd to inquire, *&c.*

Pardon pleaded.

How to plead a Pardon of a Treſpaſs in a Foreſt, at the Juſtice-Seat, *&c.* 4 *Co. Inſt.* 313.

Chief Juſtice his Warrant thro' *England.*

Manwood's Leg. For. 140. concerning the Lord Chief Juſtice of the Foreſt his Warrant to arreſt Offenders whereſoever in *England.*

Alſo it is by him noted, 526. That if the Juſtices-Seat do Wrong or Injuſtice, by allowing a Claim where it ought not, *&c.* the Record, *&c.* may be removed by *Certiorari*, (which in the *Foreſt Law* is called a *Venire fac. Record.* into the *King's Bench*, and there the Wrong ſhall be redreſs'd: The Manner whereof, appears 21 *E.* 3. 48. *Co.* 4. *Inſt.* 292, 294.

Claim allowed where it ought not.

Certiorari.

And that if the Court will diſallow of a lawful Claim, the Party grieved may have a Writ *de Libertatibus allocand.* directed to the Juſtices of the Foreſt. *Co.* 4 *Inſt.* 297.

Lawful Claim diſallowed.

And in caſe of an Erroneous Judgment there given, that a Writ of Error lies thereof. *Co.* 4. *Inſt.* 297.

When a Writ of Error lies.

Note, That a Man, before two Juſtices in Eyre, claimed, according to the Courſe of the Common Law, to be quit of Pawnage in the King's Foreſt; and alſo he claimed in the ſame Foreſt, Pawnage for the Hogs of his Tenants for Agiſtment; and becauſe it belong'd to the Juſtices of the Foreſt, they would not meddle with it. 4 *Co. Inſt.* 315.

Where other Juſtices will not intermeddle.

Concerning Arreſts and Attachments, Bail and Mainpriſe, &c.

How the Party attach'd, and impriſon'd, may be deliver'd before the Juſtice-Seat is held.

IT is ſaid before, That a Foreſter or Keeper may arreſt any Man that chaſeth or killeth any Deer within the Foreſt, when he is there taken with the Manner; or if the Offender be indicted, then there ariſeth this Queſtion, *viz.* Q. What if a Man be ſo impriſoned, and after offer ſufficient Pledges, and they are not taken? Q. What Remedy for the Party, ſeeing the Juſtice-Seats for Foreſts are but ſeldom held? For it cannot be kept oftner than every third Year. *Co.* 4 *Inſt.* 291.

He may have a *Habeas Corpus.*

R. In the Term-Time he may have, *ex merito Juſticiæ*, a *Habeas Corpus* out of the *King's Bench*; or, if he have Privilege, out of the Court of *Common Pleas*, or of the *Exchequer*, or out of the *Chancery* without any Privilege, either in the Term-Time, or in Time of Vacation; and upon the Return of the Writ, he may be bailed to appear at the next Eyre to be holden for the Foreſt, *&c.*

And be bail'd to appear.

Or a Writ *de Homine Replegiando.*

And he may alſo be bailed by Vertue of a Writ *de Homine Replegiando*, directed *Cuſtod. Foreſtæ*, if he be arreſted by the Officers of the Foreſt for Hunting, *&c.* whereof he ſtands indicted or preſented, taken with the Manner, he finding Twelve Pledges.

Unleſs, *&c.*

But if he be adjudged by the Juſtices in Eyre, and impriſoned, he cannot be bailed by that Writ *de Homine Replegiando*, directed *Cuſtod. Foreſtæ*: And if he be injuſtly proceeded withal there, he hath Remedy, as is before mentioned, by *Certiorari*, &c.

Writ *de Homine Replegiando*, how to be directed.

Alſo it is obſerved, That there is a Diverſity between the Writ *de Homine Replegiando*; for if it be directed to the Sheriff, he is reſtrained by the Statute of *W.* 1. *cap.* 15. to replevy any Man impriſoned for the Foreſt, being taken with the Manner, or indicted; but this Statute extends not to the Writ *de Homine Replegiando*, directed *Cuſtod. Foreſtæ*, &c. *Manw. L. For.* 410, 411.

Three Manner of Attachments of the Foreſt.

There are obſerv'd to be Three Manner of Attachments of the Foreſt, *viz.*

To attach,
1. By Goods and Chattels, upon Notice of an Offender.
2. By Body, Pledges and Mainpriſe, when taken with the Manner, but not otherwiſe.
3. By the Body only, without Pledges or Mainpriſe.

The firſt Manner by Goods and Chattels, is after the ſame Manner as the Sheriff doth at Common Law in Debt or Treſpaſs in the County-Court; and may be made by the Foreſter for an Offence in Nether-Vert, after he hath Knowledge thereof, by attaching the Offender's Horſe, Cow, or other Goods within the Foreſt, declaring to the Owner

The firſt Manner by the Foreſter, concerning Nether-Vert.

Owner the Cauſe thereof, and willing him to appear at the next Court of Attachments, there to find Pledges to anſwer the ſame Offence: At which Court, if the Offender do not appear, his ſaid Goods attach'd are forfeited to his Majeſty; and the Offender is to be attach'd again and again by other Goods, until he do appear at the Court of Attachments, to put in Sureties or Pledges, to anſwer the ſaid Offence at the next Juſtice-Seat of the Foreſt.

To cauſe Appearance.

But if he does appear at the Court of Attachment, and find Pledges to anſwer as aforeſaid, his Goods attach'd are to be deliver'd to him again: Yet if upon the Preſentment by the Foreſter, at the Court of Attachments, it doth appear that the Value of the Vert is under 4 *d.* then the Verderors may determine the ſame there, aſſeſs the Fine, and cauſe it to be levied for his Majeſty's Uſe.

Upon Appearance, *&c.*

His Goods to be delivered.

And this manner of Attachment may be uſed for moſt ſmall Offences and Treſpaſſes in Vert or Veniſon, where the Offender is not taken in the Manner, to compel him to appear, and find Sureties, to anſwer at the next Juſtice-Seat of the Foreſt.

Small Offences determin'd.

The Second is, when a Treſpaſſer in Vert is taken with the Manner doing the Offence, (ſo that the ſame be not in the King's Demeſn Woods, making Aſſarts or Purpreſtures there) then the Foreſter may attach him by his Body, and cauſe him to find Two Pledges to anſwer at the Court of Attachments; and then, upon his Appearance there, to be mainprized, until the coming of the Lord Chief Juſtice in Eyre of the Foreſt.

The Second is, when taken with the Manner, how he is to be attach'd.

And this is according to *Stat. Aſſiſ. & Conſuetud. For. Art. Primo, viz.* For the firſt Offence he is to be attached by his Body, and find Two Pledges; for the Second Time, Four Pledges, to appear at the Court of Attachments; and for the Third time, to attach him by the Body, and cauſe him to be brought before the Verderors, and there to be mainprized by Eight Pledges. And this ſort of Attachment by the Body and Pledges may not be, unleſs the Offender be taken with the Manner, according to *Stat.* 1 *Ed.* 3. *cap.* 8. *&* 7 *Rich.* 2. *cap.* 4. That no Man ſhall be taken nor impriſon'd for Vert or Veniſon, unleſs he be taken with the Manner, or indicted, as 1 *Ed.* 3. *cap.* 8. directs: So that *Aſſiſ. & Conſuetud. Foreſt.* is altered in this Point.

Aſſiſ. Foreſt.

1 *Ed.* 3. *c.* 8. *&* 7 *R.* 2. *c.* 4.

But when the Offender is not taken with the Manner, nor the Offence preſently known, yet the Foreſter may attach him by his Goods, as is aforeſaid, and ſo cauſe him to find Pledges to anſwer the Offence, or elſe to forfeit his Goods and Chattels ſo attach'd, until he do it.

What, if this ſecond Way will not do.

The Third Manner of Attachment by the Body only, without any Pledges or Mainprize, is warranted by the Statute of *Aſſiſ. & Conſuetud. Foreſt.* and in ſome part confirm'd by 1 *Ed.* 3. *cap.* 8. and is there expreſſed and declared to be for Offenders in the Foreſt, that are in Six Degrees.

The Third Manner by Body only, has Six Degrees.

The Firſt Degree, is ſpecified in *Aſſiſ. & Conſ. Foreſt. Art.* 1. *Poſtea, &c.* afterwards, (*Viz.*) After the third Attachment, his Body ought to be attach'd and held, that he may remember what Vert is; and then, he that is ſo attach'd and impriſon'd, may not be deliver'd or bail'd without the King's Special Warrant, or that it be done by the Lord Chief Juſtice, or Chief Warden of the Foreſt; for otherwiſe no Officer may deliver him out, or let him to Mainprize.

First Degree relates to Vert.

Who may bail the Offender.

The Second Degree, is alſo ſpecified in *Aſſiſ. & Conſ. Foreſt. Art.* 4. (*viz.*) That if any Man be found or taken with the Manner, making of Purpreſture in the King's Demeſn Woods, his Body ſhall be forthwith taken, *&c.* and then he is to be detained in Priſon for the ſame Offence, and ſhall not be deliver'd or bail'd without Special Warrant from the King, or by the Lord Chief Juſtice in Eyre, or by the Chief Warden of the Foreſt; for in this Caſe no other Perſon can deliver him by Bail or otherwiſe.

Second Degree relates to Purpreſtures, and taken with the Manner.

The Third Degree, is alſo declared in the ſaid Aſſizes and Cuſtoms of the Foreſt, *Art.* 4. But if it be out of the Demeſn within the Regard, he ſhall find Six Pledges; and if he be found ſo again, the ſecond Time he ſhall double his Pledges; but if he be found ſo again the third Time, then he ſhall be attach'd by his Body, and be detain'd in Priſon, and not be delivered or bailed but as aforeſaid.

Third Degree, when not in the King's Demeſn Woods.

Attachment.

The Fourth Degree, is alſo expreſſed in *Aſſiſ. Conſ. Foreſt. Art.* 5. about Offenders *contra Vadios & Plegios*, &c. That is, when any Perſon having offended in the Foreſt in Vert, and being therefore bound to the good Behaviour, afterwards commits the like Offence again, and being taken with the Manner, and having no Cattle in the Foreſt, whereby he may attach'd for the ſame Offence, then his Body is to be attach'd, and detain'd in Priſon, until he hath done that which by the Law he ought: And ſuch an Offender (it's ſaid) ſhall not be deliver'd by any Means, or by any other Perſon, than as is aforeſaid.

Fourth Degree, for Offenders *contra Vadois & Plegios.*

The Fifth Degree relates to Veniſon, and is declared in *Aſſiſ. & Conſ. Foreſt. Art.* 10. If any one ſhall take a Deer in the Foreſt without Warrant, his Body ſhall be arreſted, whereſoever he be found within the Limits thereof; and when he is taken, he ſhall not be deliver'd without Special Command of the King,

Fifth Degree relates to Veniſon.

King, or of his Chief Juſtice of the Foreſt. —— And again, in the ſame Aſſizes, *Art.* 11. He that ſees any Offenders to take or carry away any Deer, he ſhall ſeize them, if he can; and if he cannot, he ought to levy Hue and Cry, *&c.* So that it ſeems, if any Offender be taken with the Manner killing a Deer in the Foreſt, or carrying the ſame away (without he hath good Warrant ſo to do), then in this Caſe the Offender is to be attach'd by his Body, to be impriſon'd and detain'd until he be delivered by the Special Command of the King, or of the Lord Chief Juſtice in Eyre, or Chief Warden of the Foreſt.

Againſt ſuch as ſee Offenders take it away, and do not make Hue and Cry.

Sixth Degree relates either to Vert or Veniſon.

The Sixth Degree of ſuch Offenders in the Foreſt as are to be attach'd by the Body only, without Pledges or Mainprize, is declared in the Statute, *Anno* 1 *Ed.* 3. *cap.* 8. and relates to Vert or Veniſon, *viz.* — It is agreed and ordain'd, That from henceforth no Man ſhall be taken nor impriſon'd for Vert or Veniſon, unleſs he be taken with the Manner, or elſe indicted after the Form ſpecified and declared in the ſame Statute: So that if he be indicted according to that Statute, ſuch an Offender may be attached by his Body, either by the Foreſter or by the Sheriff, having a Warrant for that Purpoſe from the Lord Chief Juſtice in Eyre, or from the Chief Warden of the Foreſt, or his Lieutenant; and then his Body is to be retain'd in Priſon, and he may not be mainpriz'd or bail'd, but by Special Command as is aforeſaid.

When taken with the Manner, or indicted.

And may be attach'd by the Foreſter or Sheriff.

Upon a *Cap' Utl.*

And in the very like manner it is, Where an Offender in the Foreſt is outlawed for the ſame Offence, and his Body is attached by the Sheriff, by *Capias Utlegatum.* See for theſe Attachments, *&c.* in *Manw. L. For.* 448, 449, *&c.*

Where neither Verderors nor Foreſters may Bail.

Et idem 457. it is obſerved, That in every Caſe where the Offender is to be attach'd by the Body only, without Pledges or Mainprize, as in the aforeſaid Six Degrees; there ſuch an Offender is not to be bail'd by Verderors, nor by the Foreſters, nor by any other Miniſter or Officer of the Foreſt, unleſs by the King's Special Command, or by the Lord Chief Juſtice in Eyre of the Foreſt, or by the Chief Warden of the Foreſt.

Alſo by 1 *Ed.* 3. *cap.* 8. before ſet forth amongſt the Ordinances of the Foreſt; it ſeems the Chief Warden is in ſuch Caſes obliged to let to Bail or Mainprize, or otherwiſe the Party may have a Writ for that Purpoſe out of *Chancery*: And if he then let him not to Mainprize, the Party may have an Attachment out of *Chancery* againſt the Chief Warden, directed to the Sheriff, who ſhall let the Party to Mainprize in the Preſence of the Verderors, and then the Warden is to pay the Party grieved treble Damage, and be ranſom'd at the King's Will. (See for this before.)

But the Chief Warden is obliged.

Or elſe the Sheriff.

In Preſence of Verderors, *&c.*

And as concerning taking Bond by Pledges, in all Caſes where an Offender is to be attach'd by his Goods and Chattels, which is the Firſt Manner of Attachments; or elſe to be attach'd by his Body, by Pledges and Mainprize, which is the Second Manner of Attachment: The Verderors are ſaid to be the fitteſt Men to take the ſaid Bonds, becauſe they are Judges of Record; but the Foreſters may not, becauſe they are only Accuſers and Preſenters of Offences before the ſaid Verderors; and great Inconveniency might happen, if they had Liberty to bail Offenders themſelves.

Where the Verderors are fitteſt to take Obligations.

And not the Foreſters.

The Verderors therefore may take an Obligation of the Offender and Pledges with him, as the Law doth appoint in the Caſe, and keep the ſame until the coming of the Lord Juſtice in Eyre of the Foreſt; which Obligation being made unto the King's Majeſty's Uſe, will be as forcible in Law (by Reaſon of the Statute, *Anno* 33 *H.* 8. *cap.* 39.) as any Recognizance, acknowledged according to the Statute of the Staple. The Verderors alſo are to cauſe the Foreſter to preſent the ſame Offence in the ſame Nature as it was done, and the Preſentments to be entered in the Rolls of the Verderors accordingly.

They are to be kept until, *&c.*

To cauſe the Preſentment to be made, and then enter to it.

Concerning the Charge at the Swainmote, &c.

Note, *That the Preſentments and Conviction of Offenders and Offences at the Swainmote, are ſuch neceſſary Preparatives, in order to Puniſhment at the Court of Juſtice-Seat, that if they come otherwiſe before the High Court, they are traverſable, as was adjudged by the whole Court, in the* 24th *Year of Queen* Elizabeth, *when certain Offences were preſented at the Court of Juſtice-Seat by the Foreſters and Jury, againſt divers Offenders: Which were all traverſed, becauſe they were not preſented at the Court of Swainmote, and found by the Jury there, and convicted; by which Means they become Matters of Record, and therefore not traverſable.*

The Neceſſity of Preſentments, *&c.* in the Swainmote.

To prevent Traverſes in the Juſtice-Seat.

An Abſtract of the Charge given in the Swainmote.

To inquire if Suitors be preſent.

1. YOU ſhall inquire, If all thoſe that owe Suit to this Court be here; and thoſe that be not, you ſhall preſent their Names.

Alſo of Aſſarts, Purpreſtures, and Incroachments.

2. If there be any Aſſarts or Purpreſtures newly made in the Foreſt, when, and by whom, *&c.* Alſo, If there be any that maketh any Great or Small Cloſes next to Borders of the Foreſt, and inlargeth his own Ground by ſetting out his Hedges and Ditches, whereby the Foreſt is ſtreighten'd; you ſhall preſent the ſame.

If any Perſon hath removed the Marks or Bounds of the Foreſt, made Mines or Clay-Pits, levied any Mill, Swine-houſe or Sheep-houſe or Sheepscot, *&c.* without Licence.

Of burning Heath, *&c.* near the Foreſt; and of bringing Cattle, *&c.*

3. Alſo, If any Perſon hath lately burnt any Heath, Fern or Ling, within any Place adjoining to the Foreſt, you ſhall preſent, *&c.* Alſo, If any come with Sheep or Cattle in Fawning Time, where they have Common, and are not Sworn to be True to the King's Game.

Of Hunting before and after the King's Hunting.

4. If there be any Perſon that hath hunted the King's Deer, within Seven Miles about the Foreſt, at any Time within Forty Days next after the King's Hunting therein, or Forty Days before it was ſo hunted; and if there be any ſuch, you ſhall let us know who they are. [See the Reaſon of this afterwards in the *Pouralles*.]

Of keeping Salteries in Parks.

5. If any Perſon hath any Great Park or Great Cloſe within Three Miles of the Foreſt, that have Salteries, or great Gaps, called Deer-Leaps, to receive Deer into them when they be in chaſing; and when they are in them cannot get out again.

Of killing Deer without Warrant.

6. If any Perſon hath ſlain any of the King's Deer within the Foreſt without Warrant; you ſhall preſent his Name, and what Deer was ſlain, and within whoſe Walk the ſame was done.

If Perſons exceed their Warrant, *&c.*

7. If any Perſon, that had a Warrant for Deer, hath taken more than his Warrant did mention: How many? What Deer? And of what Seaſon? (For a Buck is out of Seaſon in Winter, and a Doe in Summer.) And whether he took the Deer compriſed in his Warrant, without Sight of the Verderors or Foreſters, or not?

Or hunt without View.

Of paſſing through the Foreſt with Dogs, *&c.*

8. If any Perſon keep any Hounds or Dogs, and riding or going through the Foreſt, as the Highways do lie, taketh not up his Dogs, but ſuffereth them to chaſe and kill the King's Deer; whether the Death of ſuch Deer be within the Foreſt, or without, you ſhall preſent the Name of the Perſon, and the Deer ſo killed.

Of taking Deer with Nets, *&c.*

9. If any Perſon hath taken any Deer with Nets, Cords, Ropes, double *Pater-Noſters*, Buckſtalls, or Engine; and who keeps any ſuch Engines within the Foreſt, or near it; you ſhall preſent their Names.

Of chaſing, and not killing, *&c.*

10. If any Perſon chaſe, courſe, or ſet any Net or Engine, though he kill not; you ſhall preſent his Name, and Fact, and where and when the ſame was done.

Of Perſons killing Foxes *&c.* without Authority.

11. If any Perſon come into the Foreſt, and there kill any Fox, Hare, Coney, or any other Beaſt or Fowl of Warren, without Authority; the ſame is puniſhable as a Breach of the King's Free-Chaſe, and therefore you ſhall let us know the ſame.

Of Borderers keeping ſtrange Greyhounds, *&c.*

12. If there be any Perſon that dwelleth about the Borders of the Foreſt, which keeps any ſtrange Greyhound, and waiteth when the King's Deer are out of the Foreſt, and foreſetteth ſuch Deer, ſo that they may not return Home, and by that Means are hurt or ſlain; you ſhall preſent who he is, and who owns the Greyhound, that they may be puniſh'd for the ſame accordingly.

To preſent Perſons keeping Hounds and Greyhounds.

13. If there be any Perſon within the Juriſdiction of this Court that keeps any Hounds or Greyhounds, and is not qualified ſo to do by the Laws and Statutes of this Kingdom, who hunteth in the Pourallee of his own Authority; you ſhall preſent his Name, the Time when he ſo hunted, and what Damage he did to the King in diminiſhing the Game at ſuch Hunting.

And Hunters in the Pourallee.

If Pourallee-Hunters hunt in due Time.

14. If any Pourallee-Hunter hunts oftner than thrice in a Week, or before the Sun riſing, or after the Sun ſetting, or with other Company than his own Menial Servants, or on Sundays, or in the Fawning or Fence-Month, which is Fifteen Days before and Fifteen Days after *Midſummer*.

Fence-Month.

If they Foreſtall, *&c.*

15. If any Pourallee-Hunter at any time Foreſtall the King's Deer, whether it be with dead Hay or with quick; for they ought to let run at the Tail of the Deer, otherwiſe 'tis Fineable, as if he hunted in the Foreſt.

If they make Incloſure to hinder the Deer.

16. If any Perſon hath made a Coppice, or Incloſure of the Pourallee, in hindering the King's Deer to get into the Foreſt; or hath impounded the Beaſts of any Commoner out of the County, and not put them in open Pound in the County, whether it were in the Time of Pawnage or not; thereof you ſhall give us Notice.

Of Beaſts impounded.

There are alſo many other Things to be there enquired of by the Suitors of the Court; and when they are preſented, they are to be ſealed with the Seals of the Miniſters aforeſaid, and ſent before the Juſtices of the Foreſt in the Seſſions: Which Particulars will hereafter more fully appear in the Summary of the Charge given by the Lord Chief Juſtice in Eyre.

To preſent. As to Inquire and Preſent,

Foreſters, &c. The Number of Foreſters or Walkers within the Foreſt.

Oppreſſions. Alſo Oppreſſions and Extortions committed by Miniſters and Officers.

Taking Oaks. Concerning the King's Vert, and felling and carrying away great Oaks.

Under-wood, &c. Felling and carrying away ſmall Wood and Underwood.

Browſing. Of Foreſters, &c. browſing in the Winter for their own Advantage.

Honey, &c. Of taking away Honey and Wax, &c. out of hollow Trees.

Taking Eggs. Of taking Hawk Eggs, Heron Eggs, Pheaſant Eggs or Partridge Eggs, out of their Neſts being within the Foreſt.

Trees. Of taking more Trees than a Warrant is granted for.

Timber. Of converting Timber to another Uſe, which was granted for the King's Uſe.

Fencing. If Wood-Sellers make fencing of the Coppices.

Concealing. If ſuch Wood-Sellers conceal the Profit, or make hurtful Incloſures.

Percourſe. Of making Percourſe of Swine and Pigs out of Woods into the Foreſt.

Swine unring'd. Of Swine coming into the Foreſt unring'd.

Surpluſage. Of more Swine running in Pawnage-Time, than allow'd by Patent, &c.

Swine attach'd. Of Swine and Goats once attached and forfeited.

Sheep attach'd. Of Sheep three Times attach'd and forfeited.

Rents due. Of Rents and Services due, and in arrear to the King.

Selling Maſt. Of taking Acorns and Crabs out of the Foreſt to ſell.

Stopping Ways. Of ſtopping Church-ways, or other Ways in the Foreſt or *Purlieu*.

Mills. Of not repairing Mills within the Foreſt, as they ought to be.

Waifs, &c. To preſent all Waifs and Strays.

Agiſtment. Of Agiſtment taken to the Hurt of the King's Deer.

Surcharge, &c. And if any do ſurcharge the Common with Cattle or otherwiſe, more than the Law doth ſuffer, according to the Quantity of his Tenure or Grant.

A general Charge to the Inqueſt. And of theſe and all others that you do know to be any Offence, either in Vert or Veniſon, or againſt the Laws of the Foreſt, you ſhall inquire thereof, and preſent the ſame, &c.

For which, ſee after concerning the Charge of the Chief Juſtice in Eyre, in 84 Articles.

The Charge given at the Swainmote Court holden upon St. Edmonds-Day *for the Fence-Month by the Verderors of the ſeveral Wards and Diviſions, unto the Officers of the Foreſt for the ſame Diviſions, as the Foreſters, Regardors, Agiſtors, and Woodwards, how and in what Manner they ſhall cauſe their Watch to be kept for the ſame Month, beginning Fifteen Days before* Midſummer, *and ending Fifteen Days after* Midſummer, *upon St.* Cyril's Day.

Warning to keep up all Dogs. NOTE, at this Time the Foreſters do give open Warning to every Houſekeeper within every Bailiwick of the Foreſt, that they ſhall keep in all their Dogs, and not ſuffer them to go abroad; alſo, during this Time, Maſtiffs that are expeditated, according to the Aſſizes, may not be ſuffered to go from their Maſters Houſes, nor any kind of Dogs whatſoever.

The Charge of Warding.

To attach ſuſpicious Wanderers. 1. That if they ſhall find any Man ſuſpiciouſly wandring up and down in the Foreſt out of the High-way, without ſome ſpecial Buſineſs in this Time, they ſhall attach him, and bring him to the Verderors.

To take up Dogs, &c. 2. If they ſhall find any Dogs runing up and down, like to do Hurt, or to frighten any Deer, they ſhall enquire whoſe Dog the ſame is; and alſo take him up, and bring him to the Verderors.

To attach Hunters. 3. If they ſhall ſee any Man hunting or courſing any wild Beaſts within the Foreſt, they ſhall attach him, and bring him before the Verderors.

Carriers of Fawns. 4. If they ſhall ſee any Perſon carrying away of any young Fawn or Fawns; they ſhall apprehend him, and carry him to the Verderors.

5. If

Carriers of Bows, Guns or Engines.

5. If they ſhall find any Man out of the King's High-way, carrying of either Croſs-bow, Long-bow, or Gun, or any other Engine, to hurt or deſtroy any wild Beaſt of the Foreſt; they ſhall take them with the ſame, and bring them to the Verderors.

Such as gather Ruſhes or Bents, *&c.*

6. If they ſhall find any Perſon or Perſons gathering of Ruſhes, or Bents, or ſuch like, within the waſte Soil of the Foreſt, or within the King's Demeſn Woods or Lands, or elſewhere, to the Hurt of the wild Beaſts, in this Time; they ſhall attach him, and cauſe him to be brought before the Verderors to find Pledges.

Swine-drivers, *&c.*

7. If they ſhall ſee any Perſon or Perſons driving any Swine into the Foreſt to feed; they ſhall forthwith attach him and the Swine alſo, and carry him and the Swine to the Verderors.

Foreigners driving Cattle.

8. If they ſhall find any Foreigner driving his Cattle in the waſte Soil of the King's Foreſt, to agiſt them there; they ſhall apprehend him, and carry him to the next Verderors.

Finding Deer hurt, *&c.*

9. If they ſhall find any Deer hurt or dead, they ſhall enquire how he came by the ſame, and give Notice thereof to the Verderors.

To make Hue and Cry.

10. If they ſhall ſee any Offenders or Treſpaſſers in the Foreſt, they ſhall apprehend them, and carry them before the next Verderor, if they can; and if they cannot take them, then they ſhall make Hue and Cry after them, until they be taken.

To attach Perſons driving Cattle, *&c.*

11. Alſo if any Man ſhall fetch or drive any kind of Cattle or Beaſts thro' the waſte Soil of the King's Foreſt, to the Hurt of the wild Beaſts; they ſhall attach him, and carry him before the Verderors.

And this being done in every Point accordingly, and theſe Articles truly perform'd, the wild Beaſts ſhall have a quiet Peace for their Time of Fawning.

How theſe were formerly obſerved.

And it appears by the Aſſizes of the Foreſt of *Lancaſter* and *Pickering*, that this Courſe was obſerv'd in every Point in the Time of K. *Ed.* 3.

A Summary *of the Charge of the Lord Chief Juſtice in Eyre of the Foreſt, which he doth uſe to give at the* Juſtice-Seat.

Of Attachments concerning Vert and Veniſon ſince the laſt Seſſions.

1. TO enquire of all Attachments made ſince the laſt Seſſions, concerning the Vert and Veniſon, as well in the King's Demeſn Woods, as in any other Place within the Bounds of the Foreſt, by whom, and how the Attachments were made; if there had been any Hunting within the ſaid Bounds, and by whom; and if the Foreſters, or any other conſented to the ſame: Alſo, who had hunted with Warrant or without, and when, where, and how often.

Of Attachments by Night.

2. To enquire if any were attached by Night, who they were, and by whom attached.

In the Fence-Month.

3. What Attachments were made in Fence-Time of Offenders and ſuſpected Perſons.

Of Aſſarts, Waſtes and Purpreſtures.

4. If there had been any Aſſarts, Waſtes or Purpreſtures not formerly preſented, other than thoſe by Grant or Licence, whether in the King's Demeſn, or the Lands of any other; by whom made, and when; in whoſe Holding the ſame be, how incloſed, and how many Acres they contain.

Of incloſing the Borders.

5. If any Perſons had incloſed any, and what Quantity of Ground bordering upon the Foreſt, to inlarge his or their own Ground, Hedges or Ditches, and ſo ſtreigthening the Foreſt; to preſent their Names, and the Quantity of the Ground ſo inlarged.

Taking away Bounds.

6. If any Perſons have raiſed up, or taken away any Mark or Bound of the Foreſt; to preſent their Names, and the Time when.

Limits of Bailiwicks.

7. To enquire of the Bounds and Limits of all Bailiwicks within the Foreſt, in what Manner they are bounded, and how the Bailiffs and Foreſters have uſed to keep and walk; what they claim to appertain to their Offices, what they take by Reaſon thereof, and by what Warrant.

Makers of Mines.

8. To preſent the Names of ſuch Perſons as have made any Sort of Mines, and where the ſame are ſo made.

Tanners and White-Tawers.

9. To enquire what Tanners or White-Tawers uſe their Faculties within the Precinct of the Foreſt.

Buildings and Mines.

10. To preſent the Names of ſuch as have new-builded, or made any Mine ſince the laſt Seſſions, and not preſented before.

Of new Churches, *&c.* erected.

11. If any Church, Town or Houſe, hath been erected within the Bounds of the Foreſt ſince the laſt Seſſions; by whom, and how long, and what Beaſts were thereby fed, to the over-charging of the ſaid Foreſt.

Of Swine-houſes, *&c.* erected.

12. To enquire if any Swine-houſe, Neat-houſe, Sheep-houſe or other Houſe, be erected to the Noiſance of the Foreſt, by whom, how much the Ground is, and how much Paſture for Deer is thereby, and by the Beaſts going to and from the ſame, ſurcharged and impared.

Swearing Inhabitants.

13. If the Inhabitants within the Foreſt be ſworn to be true to the Foreſt, and of their Appearance and Default at the Grand Seſſions.

14. If

If Officers be ſworn.

14. If any of the Officers, having Walks, and acting in the Foreſt, be unſworn; to preſent his Name, and whether he be preſent at, or abſent from the Seſſions.

Of Saltaries and Leaps.

15. To enquire what Parks be within the Bounds of, or near to the Foreſt; how incloſed, what hurtful Saltaries and Leaps they have; what common Treſpaſſers be in the King's Parks in that Shire, with Bows, Arrows, or other Engine; and what Grounds be till'd in ſuch Parks without Licence.

Ground tilled.

Of Waifs and Strays.

16. To enquire what Waifs and Strays were ſince the laſt Seſſion, how the King is anſwer'd for them; whether any other Claim and take them, and by what Warrant.

Of Bees and and Honey, *&c.*

17. If any Perſons have taken any Swarm of Bees, Honey or Wax, within the Foreſt, the Number, Quantity and Value, and to whom they of Right belong.

Of Turbary.

18. Who taketh the Profit of Turbary, if any within the Foreſt; whether any Rent be due for the ſame, and what Detriment or Hurt it is.

Of new Rivers and Creeks, *&c.*

19. Alſo if there be any new Haven, River or Creek made, whereby Wood, Timber or Veniſon hath been convey'd; and to preſent the Offenders, their Aiders and Conſenters.

Of Scot-Ales and Oppreſſion.

20. If any, and what Officer hath made Scot-Ales, gathered Sheaves of Corn, and committed any, and what Extortion or Oppreſſion by Colour of his Office.

Seeking Cattle in Fence-Month.

21. Alſo to preſent ſuch as (being not ſworn to the Aſſize) come into the Foreſt in the Fence-Month to ſeek for Cattle.

Of keeping the Swainmote, and the Forty Days Court.

22. Whether the Steward of the Swainmote has kept his Court Three Times in the Year, and taken his Preſentments, affirm'd by Verdict, and enſealed by the Verderors and other Officers, according to the Foreſt-Law; and whether the Forty-Day Court hath been kept according to the Statute.

Of taking Fines, *&c.* And falſe Indictments.

23. Whether the Keeper, Bailiff or Steward, hath taken Fines or Amercements of Treſpaſſers, or of thoſe indicted or ſuſpected for Vert or Veniſon; of whom, and how much; and if they had cauſed any Perſon to be falſly indicted, and after what Manner.

Of Concealments by Foreſters, *&c.*

24. Alſo, Whether the Foreſters, Verderors, Regardors and Agiſtors, *&c.* have concealed Treſpaſſes, or made Attachments for their own Gain, or concealed Purpreſtures, or other Matters belonging to their Office; and whether they have appropriated to themſelves that which ſhould belong to the King.

Taking Fines or Rewards.

25. *Item*, To enquire and preſent, if any Foreſters of Fee, or other Officers, have wrongfully taken Fine or Reward, Chiminage or Paſſage; or by Colour of his Office, made Collections contrary to the Charter of the Foreſt.

26. If any Foreſter hath any Perſons uſually reſorting to him, and that haunt the Foreſt; and what ſuch Perſons do uſually receive of the Foreſter; if ſuch Perſons be ſuſpected for Treſpaſſes done within the Foreſt, and to preſent their Names.

Having ſuſpected Reſorters.

27. *Item*, To enquire how the Foreſters behave themſelves in their ſeveral Offices, and who of them are or are not profitable or uſeful to the King; if they give any Thing for their Bailiwicks, and to whom, ſo that the King is a Loſer thereby. *Item*, To enquire of Foreſters amoved by the Steward or Verderor, for what Cauſe, and who they are; and whether there be any more Foreſters in a Bailiwick than are neceſſary, and whether any of them ſurcharge their Bailiwick by undue Lodgers, and which have their Horſes there for three Days and three Nights in other Mens Houſes, either within or without the Bailiwick; which of the ſaid Foreſters have any lewd or hurtful Walking-Servants; which of them have made any new Innovation concerning the Foreſt, to the Damage of the King's Majeſty, or Prejudice of the Country.

How the Foreſters behave themſelves, *&c.* and if they give Rewards.

If more than neceſſary.

If they harbour undue Lodgers, *&c.*

Or made Innovations.

28. To enquire of all Bailiffs, which be Foreſters in Fee, by what Warrant they enjoy their Bailiwicks, what yearly Farm or Annuity they pay to the King therefore, and what they ought to take of the Foreſt to pay the ſame; what are the right Meets and Bounds of their Bailiwicks, and what Demeſn Lands the King hath therein, and how they are meeted and bounded.

Of Foreſters in Fee, their Warrant, and their Rent, *&c.*

29. If any Foreſter in Fee, or other, hath taken Reward of any Foreſter, that he ought to be deemed within the Liberty of the Foreſt; and after ſuch Reward taken, doth diſplace the Foreſter, and for a new Reward putteth another in his Place.

If they place for Reward.

30. If any Perſon within the Bounds hath incloſed his ſeveral Ground, Wood or Warren, to the Prejudice of the Foreſt; or that, without Warrant, hath afforeſted any Wood of his own.

Of Incloſures and Woods afforeſted.

31. Whether any Deer hath been found by the Foreſters newly dead, or mortally wounded; and whether the Fleſh thereof hath been well diſtributed amongſt the Poor, as it ought, and who can teſtifie the ſame.

Of Deer found newly dead, *&c.* and diſtributing it.

32. *Item*, Whether the Head and Skin of ſuch dead Deer were delivered to the Freemen of the next Town adjoyning, *&c.*

Of the Head, *&c.*

33. *Item*, If due Preſentment hath been made to the Verderors, of Arrows found within the Foreſt, that the Verderor might enter them in his Roll.

Of Arrows found.

34. Whether Greyhounds found running to diſturb the Game, were preſented to the Verderors, to the intent the ſame ſhould be ſent to the King, or Chief Juſtice of the Foreſt.

Of Greyhounds found.

Of Lawing Dogs.

35. If Dogs that ought to be Lawed, be well and orderly Lawed.

Of great Dogs.

36. If any Man in Haveſt-time hath taken in any Maſtiff, or great Dog, to the Hurt of the Deer.

Of Free Chaſers.

37. If any Perſon, to whom the King had granted Liberty of Free-chaſing in the Foreſt, hath by Colour thereof done any Hurt to the King's Majeſty.

Of Hunters of Vermin.

38. If any Perſon who had like Liberty to hunt Vermin, or chaſe Foxes, Marterns, wild Cats and Squirrels, within the Foreſt, hath, by Colour thereof, kill'd the King's Deer.

Not making Hue and Cry.

39. To preſent the Name of ſuch Perſon, who, ſeeing a Treſpaſſer take Deer in the Foreſt, hath not made Hue and Cry to apprehend the Offender.

Of Dogs and Engines.

40. *Item*, To enquire and preſent ſuch as keep Dogs within the Bounds, or without, that will run and kill Deer, Hares, or any other Beaſts of Chaſe; or do keep any manner of Engine, who do thereby take Deer or other Beaſts, and who are their Receivers, Aiders and Abettors.

Of Deer taken.

41. Whether any Deer have been taken, by whom, and if with Warrant or without.

Offenders in Warrens, *&c.*

42. *Item*, To enquire if any have been Offenders in Warrens of Fiſh-pools within the Liberties of the Foreſt.

Of Bows and Engines.

43. Alſo, what Perſons within the Limits keep Bows, Shafts, Hounds, or other Engines, to the Prejudice of His Majeſty's Beaſts of Chaſe; and to preſent ſuch as uſe to enter into the Foreſt with Bows and Arrows.

If Fee Deer duly taken, *&c.*

44. To enquire if any Perſon (to whom the King hath given Deer, by reaſon of his Office) hath taken any other Kind, or more than his Due; who were aiding and aſſiſting, and whether or not it were in the ſight of the Foreſters and Verderors: Alſo to enquire who hath taken any Kind of Hawks, Pheaſants, Partridge, or other Fowl of Warren, contrary to the Laws of the Foreſt.

Hunting before or after the King.

45. To enquire if any Perſon hath hunted the King's Deer within Seven Miles about the Foreſt, at any Time within Forty Days next before the King's Hunting, or Forty Days next after.

Of *Purlieu-mens* Hunting.

46. If any *Purlieu-hunter* hunt or kill Deer diſorderly, or before the Sun or after, or with other than his Menial Servants, or hunted upon the *Sundays*.

If they foreſtal, *&c.*

47. If any *Purlieu-hunter* at any Time foreſtal the King's Deer, whether it be with dead Hay or with quick, and how (for they may not foreſtall, but let ſlip at the Tail); and whether he hath hunted in the Fence-month or not.

Going againſt the Wind to kill Deer.

48. *Item*, To preſent him, who coming into the *Purlieu*, findeth a Deer in his Feeding, and goeth againſt the Wind, and ſo ſlayeth him with Bow, Greyhound, or other Engine; or foreſetteth him at any Gap or Pitch as the Deer is wont to walk or take his Flight.

Paſſing thro' the Foreſt with Dogs.

49. Alſo, if any Perſon, with long running Hounds, paſſeth thro' the Foreſt as the High-ways lie, and takes not up his Hounds with a faſt Knot, ſo that they wind, drive, and kill the Deer; be it within the Foreſt or without, to preſent his Name, his Place of Abode, and the Deer ſo killed.

Nets and Engines.

50. *Item*, To preſent ſuch as take Deer with Nets, Cords, Ropes, double *Pater-Noſter*, or other Engine.

Setting-Engines.

51. To preſent ſuch as chaſe or courſe, or ſet any Engine, though he kill not.

Killing Fowl, *&c.*

52. Alſo ſuch as come into the Foreſt, and kill any Beaſts or Fowl of Warren, without Authority, *&c.*

Strange Greyhounds.

53. *Item*, Such as dwell about the Foreſt, and keep ſtrange Greyhounds; and when the King's Deer are out of the Foreſt, foreſets and kills them.

Deer-killing.

54. To preſent ſuch as kill the King's Deer within the Foreſt, and what Deer were ſo killed.

Keeping Hounds, *&c.* and not qualified.

55. Alſo ſuch as keep Hounds or Greyhounds, and cannot diſpend 10 *l. per Annum* of Land of Inheritance; or 30 *l. per Annum* of Freehold Land over all Charges; or is not poſſeſſed of Goods and Chattels worth 200 *l.* or is not the the Son of a Knight or Baron, or Heir apparent of an Eſquire, and yet of his own Authority hunteth in the *Purlieu*. [*Note*, Theſe Qualifications are alter'd by 22 *Car.* 2. 25. *See concerning* Purlieu's.]

Agiſting the King's Lands.

56. To enquire if any Foreſter or Officer have agiſted Cattle in the King's Demeſn Hays, and ſeveral Woods; whether they have mowen any of the King's Lands, taken the Graſs or Hay to their own Uſe, or ſold the ſame; how much the ſame was worth, or what they receiv'd therefore.

Agiſtors Accompts.

57. Whether the King's Agiſtors have faithfully agiſted his Majeſty's Woods, and fully accompted for them, or what remains in their Hands.

Percourſe by Swine.

58. To enquire, if any, having Woods adjoining to the Foreſt, take Swine in Pawnage, and then make Gaps for them to eſcape into the Foreſt; and to preſent the Offenders, Number of Swine, and Value.

Swine unring'd.

59. Alſo, if any bring Swine unring'd into the Foreſt in Pawnage-time, and of the Number and Value of ſuch Swine.

Surcharging Pawnage.

60. To preſent ſuch as, having Patent for Pawnage of Swine, put in more than they are allow'd; alſo the Number and Value of ſuch Overplus.

Swine unring'd, Goats and Sheep attach'd.

61. To enquire and preſent the Number and Value of Swine unring'd, and Goats attach'd within the Foreſt, ſince the laſt Seſſion, for they are forfeitable by the firſt Attachment, being no Beaſts of Common; alſo of the Number and Value of ſuch Sheep, as coming within the

the Foreſt, have been attach'd Three Times ſince the laſt Seſſion.

Surcharge of Common. 62. To enquire and preſent the Names of all Strangers having Cattel in the Foreſt, to the Surcharge and Nuſance of the Common.

Of Stoned-horſes, and unprofitable Beaſts. 63. To enquire what Stoned-Horſes, under Stature, have been put into the Foreſt; alſo of unprofitable and feeble Mares, Fillies or Foles paſturing therein; and whether the Statute for *Drift of the Foreſt* hath been duly put in Execution.

Fines taken by Officers. 64. Whether any Officer hath taken Fines for agiſting of ſtrange Cattle within the Foreſt, to the Prejudice of Deer, *&c.* and to how much the Puſture hath been prejudiced thereby.

Deſtroying of Covert. 65. Likewiſe, if any Perſon hath ſpoil'd or deſtroy'd any Bruſh, Fern or other Covert or Defence where the Deer do commonly haunt, or uſually calve or fawn.

Of ſelling Eſtovers. 66. If Perſons, to whom the King hath granted Eſtovers of Fern or Bruſh for their only Uſe, have, under Colour, ſold any ſuch Eſtovers; who hath had any Warrant for taking the ſame, and how much the Foreſt is thereby prejudiced.

Surcharging of Paſture. 67. Whether any Perſon hath ſurcharged the Paſture and Meadow within the Foreſt, in what Manner, and to what Damage.

Carrying great Oaks. 68. Whether any Perſon hath fell'd the King's great Oaks, and carried them away; and to preſent the Value of the Horſes and Cart, and of the Trees ſo carried away.

Wood or Under-woods. 69. Alſo to preſent ſuch as have cut down any ſmall Wood or Underwoods, and carried them away unattach'd.

Browſing for Lucre. 70. Alſo, if any Foreſter, in Winter Time, browſeth any Maſt, Bows, or great Oaks, more for the Advantage of ſelling, than ſuſtaining the King's Deer, and the Price thereof.

Licence of Wood. 71. *Item*, If ſuch as having Licence to take Wood, exceed their Grant, how much, and by whoſe Aſſent.

The like of Trees. 72. If Perſons, having Warrant to take Trees, have exceeded; and if they were taken in View of the Verderors or Foreſters.

Selling the King's Oaks. 73. To preſent ſuch as having Warrant to take Oaks to the King's Uſe, take for their own Uſe, or ſell them, and of what Value.

Wood-Sellers Coppices. 74. If upon Commiſſion for Wood, the Wood-Sellers have well made the Hedges of the Coppice; if they have concealed any of the Profit; if made any Incloſures to the Hurt of the Commoners, or put in Cattle to the Hurt of the Springs.

Imbezelment by Officers. 75. Alſo what Oaks or Wood the Foreſters have given, ſold or taken, undermin'd or impair'd, to which the Officers have conſented, *&c.* and the Quantity and Value of ſuch Woods, *&c.*

If they have made Spoil. 76. Alſo of ſuch as have made Spoil or Waſte of Vert in the Woods of the King, and of other Perſons, within the Foreſt; and in what Particulars the Foreſters have misbehaved themſelves concerning Woods within their Bailiwicks; and whether, for Favour or Affection, they have ſuffered Spoil or Waſte of Woods; what, and how much, and for what Reward, *&c.*

Of Woods aſſarted. 77. To enquire concerning the Value of the Veſture and Covering of Woods aſſarted, and who received the Profits; and the Value of the Corn ſown on the ſeveral Aſſarts.

Walking with Bows, *&c.* 78. To preſent ſuch Perſons as walk in the Foreſt with Bows and Arrows out of the King's High-way, contrary to the Aſſize of the Foreſt, other than the Keepers and Officers belonging to the ſame.

If Foreſters do duly walk. 79. To enquire, if the Foreſters duly and timely walk within their Limits, and perform their Offices in watching and hearkning after Offenders coming into the Foreſt.

Stopping of Ways. 80. To preſent the Names of ſuch as have ſtopped or ſtreightned any Church-way, Miln-way, or other Ways within the Foreſt or *Purlieu*.

Selling of Maſt. 81. If any Perſon gather any Acorns, Crabs, or any other Maſt, and maketh Sale of them, to the Hurt of the King's Deer and Commoners.

Incloſures in the *Purlieu*, &c. 82. If any Perſon hath made Coppice or Incloſure in the *Purlieu*, to the Hurt of the King's Deer, and of the Owners, or pounded the Beaſts of Commoners out of the Shire, and not in open Pounds, and whether in the Pawnage-Time or not.

If Rents duly paid. 83. *Item*, Whether all ſuch Rents, Services, and other Duties which ought to be paid and done to the King or his Foreſters, have been duly and truly anſwered and done, yea or no.

Impleading out of the Juriſdiction. 84. And laſtly, You ſhall likewiſe preſent, if there be any Perſon or Perſons which hath impleaded or uſed any Plea, which doth appertain to our Sovereign Lord the King, and which is within the Juriſdiction of the Juſtice of the Foreſt, and before him to be determined: Or, If there be any Perſon that hath taken any Fine or Ranſom for taking or killing any Hares, and for having and keeping any unprofitable Dogs in the ſaid Foreſt, contrary to the Aſſize of the ſame; or for any other Treſpaſs, for which the King's Majeſty ought to have Reformation.

Taking Fines, *&c.* for Favour.

Of giving Verdict. *Note*, By *Stat. 7. R. 2. c. 3.* the Verdict is to be given up, where the Charge is given to the Jury, as was before obſerved.

Wood ſeized for Default. *Note*, That if any Subject that hath any Wood within the Foreſt in his Woodward, do make Default at any Juſtice-Seat, his Wood ſhall be ſeized into

into the King's Hands, and ſo it ſhall remain until he hath replevied the ſame, and made his Fine. *Itin. Lanc. fo.* 7.

Trees given away, *&c.*

That at every Juſtice-Seat of the Foreſt, the Number of Trees that have been given away by good Warrant or otherwiſe, and alſo the Windfalls, muſt be preſented.

So Profit of Pawnage, *&c.*

Likewiſe the Profit of Pawnage, Ruſhes, Fern, Gorſe, Sedges, and ſuch-like, muſt be preſented there: But all this is to be underſtood of the King's own Woods, or Waſte Soil. *Ibid.*

The Chief Foreſter muſt well Account.

And by the Aſſizes of the Foreſt, the Chief Foreſter muſt make account of all the Trees that have been fell'd, and by what Warrant they were cut down; and for thoſe for which he cannot ſhew good Warrant, he ſhall be amerc'd. *Item. Pick.* 187.

The Freeholders Reeve, and Four Men with him, muſt appear.

All the Freeholders within the Foreſt, as well Spiritual as Temporal, muſt appear before the Juſtice-Seat the firſt Day of the *Iter*; and of every Town, the Reeve, and Four Men alſo with him: Which is called, *Prepoſitus & quatuor Homines, &c.* or elſe to be amerced and affeared.

See, before the Brief Account, what Matters and Things may be inquir'd of, and determined, by the Court of Juſtice-Seat.

Of Hunting and Hawking within the Foreſt, and what ſhall be ſaid Lawful, and what Unlawful.

BEfore we proceed further in this Matter, it may be convenient to count over the Terms which are to be uſed for Beaſts of Venary and Chaſe, as they are in Company one with another.

Whereupon, it is obſerrv'd, That Foreſters and good Woodmen do uſe to ſay,

A Herd of Harts.
A Herd of all manner of Deer.
A Bevy of Roes.
A Sounder of Swine.
A Rout of Wolves.
A Richeſs of Marterns.
A Brace or a Leaſe of Bucks.
A Brace or a Leaſe of Foxes.
A Brace or a Leaſe of Hares.
A Couple of Rabbets.
A Couple of Conies.

Terms for their Lodging.

A Hart, harboureth.
A Buck, lodgeth.
A Roe, beddeth.
A Hare, ſeateth or formeth.
A Coney, ſitteth.
A Fox, kennelleth.
A Martern, treeth.
An Otter, watcheth.
A Badger, eartheth.
A Boar, coucheth.

Terms for their Diſlodging.

Unharbour the Hart.
Diſlodge or Rouze the Buck.
Start the Hare.
Bolt the Coney.
Unkennel the Fox.
Tree the Martern.
Vent the Otter.
Dig the Badger.
Rear the Boar.

Terms for the Noiſe at Rutting-time.

A Hart, belleth.
A Buck, growneth or troateth.
A Roe, belloweth.
A Hare, beateth or tappeth.
A Fox, barketh.
A Wolf, howleth.
A Boar, freameth.
An Otter, whineth.
A Badger, ſhricketh.
A Goat, rattleth.

Terms for Copulation.

A Hart, or Buck, goeth to Rut.
A Roe, goeth to Tourn.
A Boar, goeth to Brim.
A Hare and Coney, goeth to Buck.
A Fox, goeth to Clicketing.
A Wolf, goeth to Match or to Make.
An Otter, hunteth for his Kind.

Terms for the Treading or Footing of all Beaſts of Venary and Chaſe.

Of a Hart, the Slott.

Of a Buck, and of all Fallow-Deer, the View.

Of all Deer, if on the Graſs, and ſcarce viſible, then 'tis called Foiling.

Of a Fox, the Print, and other ſuch Vermin, the Footing.

Of an Otter, the Marks.

Of a Boar, the Tract.

Of a Hare, diverſly: For when ſhe is in open Field, ſhe Soreth; when ſhe winds about to deceive the Hounds, then ſhe doubleth; when ſhe beateth on the hard High-way, and her Footing can be perceived, then ſhe pricketh; and, in Time of Snow, it is called, *The Trace of the Hare.*

Terms

Terms of the Tail.

Of a Hart; the Tail.

Of a Buck, Roe, or any other Deer; the Single.

Of a Boar; the Wreath.

Of a Fox, the Bruſh or Drag; and the Tip at the End, is called *The Chape.*

Of a Wolf; the Stern.

Of a Hare and Coney; the Scut.

Terms of their Ordure.

Of a Hart, and all Deer; their Excrement is called, Fewments or Fewiſhing.

Of a Hare; Crotiles, or Crotiſing.

Of a Boar; the Leſſes.

Of a Fox, the Billiting; and of all other ſuch Vermin, the Fuants.

Of an Otter; the Spraints.

All kind of Deers Fat, is called *Sewet*; and yet you may ſay, *This Deer was a High Deer of Greaſe.*

The Fat of the Hare, and the Boar, is called *Greaſe.*

The Fat of the Roe only, is called *Beavy Greaſe.*

It is ſaid, A Litter of Cubs. A Neſt of Rabbets. A Squirrel's Dray.

Terms for the Attire of Deer.

A Stag. Of a Stag, if perfect, the round Roll of the Horn that is next to the Head, is called *The Bur*; the little Knobs on it, *The Pearls*; the main Horn it ſelf, is called *The Beam*; and the little Streaks therein, *The Gutters*; then, *The Antlier*, *The Sur-Antlier*, *Royal*, *Sur-Royal*; and all at top, *The Croches.*

Red Hart. *Note*, That a Red Male-Hart, of a Year old, is called *A Spitter*; that a

Rein-Deer. Rein-Deer is a Beaſt like a Hart, but hath his Head fuller of Antliers.

The Heads go by ſeveral Names, according to Huntſmens Terms:

A Crowned-top. The Firſt Head is called, *A Crowned-top*, becauſe the Croches are ranged in Form of a Crown.

A Palmed-top. The Second is called, *A Palmed-top*, becauſe the Croches are form'd like a Man's Hand.

A Head of Croches. Thirdly, All Heads which bear not above Three or Four, the Croches being placed a-loft, all of one Height, in Form of a Cluſter of Nuts, are to be called, *Heads of ſo many Croches.*

Forked Heads. Fourthly, All Heads which bear Two in the Top, or having their Croches doubling, are to be called, *Forked Heads.*

Heads only. And all Heads which have double Burs, or the Antliers, Royals, and Croches turned downwards, contrary to other Heads, are only called *Heads.*

Head of a Hart the Second Year. It is obſerved of Harts, That they bear not their Firſt Head, called, *Broches*, and in a Fallow-Deer, *Pricks*, until they enter the Second Year of their Age.

Third Year. In the Third Year, they bear Four, Six or Eight ſmall Branches.

Fourth Year. At the Fourth, they bear Eight or Ten.

Fifth Year. At the Fifth, Ten or Twelve.

Sixth Year. At the Sixth, Fourteen or Sixteen.

Seventh Year. And at the Seventh Year, they bear their Heads beamed, branched and ſummed, with as much as ever they will bear, and do never multiply but in Greatneſs only.

Buck. Of a Buck, they uſually ſay, *The Bur*, *The Beam*, *The Brow-Antlier*, *The Back-Antlier*, *The Advancer*, *Palm* and *Spellers.*

Palmed Head. If the Croches grow in the Form of a Man's Hand, it is then called, *A Palmed Hand.*

Crowned Heads. Heads bearing not above Three or Four, the Croches being placed aloft, all of one Height, are called, *Crowned Heads.*

Forked Heads. Heads having doubling Croches, are called *Forked Heads*, becauſe the Croches are planted on the Top of the Beam like Forks.

Prick. The Firſt Head of a Fallow-Deer, is called, *Prick.*

Deer mew. When Deer caſt their Horns, 'tis ſaid, *They mew.*

Anſwer to the Queſtion, *What a Stag bears.* If a Queſtion be, *What a Stag bears*; he that anſwers only, reckons the Croches he bears, and never expreſſes an odd Number: As if he have Four Croches on his near Horn, and Five on his far, they ſay, *He beareth Ten*; a falſe Right on his near Horn (for all that the Beam bears, are called *Rights*): If but Four on the near Horn, and Six on the far Horn, they ſay, *He bears Twelve*; a double falſe Right on the near Horn, not only making the Number even, but alſo the Horns with that Diſtinction.

When a Hart breaketh Herd. When a Hart breaketh Herd, and draweth to the Thickets or Coverts, they uſually ſay, *He taketh his Hold*, or *He goeth to Harbour.*

The ſeveral Sort of Hounds, &c. There are ſeveral Hounds and Beagles, for which the Hunters have ſeveral Titles; as, *Gaze-Hound*, *Blood-Hound*, *Staunch-Hound*, *Harrier* and *Tarrier*, &c. but they generally, in all Kennels and Packs, rank them under theſe Heads, *viz. Enterers*, *Drivers*, *Flyers*, *Tyers*, &c.

What kind of Dogs the Law regards. There are ſaid to be Four Kinds of Dogs which the Law regards, *viz. A Maſtiff*, *A Hound* (which comprehends a *Greyhound*), *a Spaniel*, and a *Tumbler*; and in a Dog, a Man may have a Property; ſo alſo of a Ferret, though it be of a more baſe Nature: And that where a Man brought his Action of Treſpaſs for taking of a Blood-Hound, he recovered 10 *l.* Damage. *Cro. Eliz.* 125, 126.

Different Terms for Hounds and Grey-Hounds, &c.

Couple. Of Hounds; Two make a Couple, Three make a Couple and Half.

Brace. Leaſe. Of Grey-Hounds; Two make a Brace, Three make a Leaſe.

To ſlip and caſt off. Huntſmen ſlip a Grey-Hound, and caſt off a Hound.

Leaſe. Lyome. The String wherewith they lead a Grey-Hound, is called *A Leaſe*; and for a Hound, *A Lyome*.

Collar. Couples. The Grey-Hound hath his Collar, and the Hound hath his Couples.

A Kennel. A Pack. They ſay, *A Kennel of Hounds*, and *a Pack of Beagles*.

Hounds challenge. When Hounds are caſt off, and find ſome Game or Chaſe, Huntſmen ſay, *They Challenge*.

They bawl. If they are too buſy before they find the Scent good, *They bawl*.

They babble. If they be too buſy after they find good Scent, *They babble*.

They are in full Cry. If they run it End-ways orderly, making it good, and then hold in together merrily, then, *They are in full Cry*.

They Lapſe. When Spaniels open in the String, (or a Grey-Hound in his Courſe) then, *They Lapſe*.

They Plod. When Hounds hang behind, and beat too much upon the Scent or Place, then, *They Plod*.

They Bay. And when they have earthed a Vermin, or brought a Deer, Boar, or ſuch-like, to turn Head againſt them, then it's ſaid, *They Bay*.

Entries. When the Huntſmen find Deer have lately paſſed into Thickets, *&c.* by which they gueſs their Greatneſs, and then put the Hounds or Beagles thereto for the View; they account ſuch Places *Entries*.

A Layr. The Impreſſion where any Deer hath repoſed or harboured, they call, *A Layr*.

Hare ſtarted. When the Huntſmen ſtart a Hare, they ſay, *That, That*, or *There, There*.

Deer. But they ſay, *How*, to a Deer.

A Vauntlay. When they ſet Hounds or Beagles in Readineſs, expecting the Chaſe to come by, and then caſt them off before the reſt come in, they call it, *A Vauntlay*.

A Relay. And when they ſet Hounds in Readineſs, where they expect the Deer will come by, and then caſt them off when the other Hounds are paſſed by, they account that *A Relay*.

They Blemiſh. When Hounds or Beagles find where the Chaſe hath been, and made a Proffer to enter, but return'd; they ſay, *There is a Blemiſh*.

They draw amiſs. When the Hounds or Beagles hit the Scent of their Chaſe contrary, as to hit it up the Wind when they ſhould not, 'tis then ſaid, *They draw amiſs*.

They Challenge. When Hounds or Beagles at firſt finding the Scent of their Game preſently open and cry, 'tis then ſaid, *They Challenge*.

They Yearn. When Beagles bark and cry at their Prey, 'tis ſaid, *They Yearn*; but when they run long without opening or making any Cry, then, *They run Mute*. They run Mute.

When Hounds run at a whole Herd of Deer, 'tis ſaid, *They run Riot*. They run Riot.

When the Hounds touch the Scent, and draw on 'till they rouze or put up the *Chaſe*, it's ſaid, *They draw on the Slot*. They draw on the Slot.

When the Hounds or Beagles take freſh Scent, hunting another Chaſe until they ſtick or hit it again, 'tis ſaid, *They hunt Chaſe*. They hunt Chaſe.

When the Hounds or Beagles hunt it by the Heel, then, *They hunt Counter*. They hunt Counter.

When the Chaſe goes off, and comes on again, traverſing the ſame Ground to deceive the Hounds or Beagles, 'tis ſaid, *They hunt the Foil*. They hunt the Foil.

When Hounds or Beagles have finiſhed their Chaſe by the Death of what they purſued, and then in Requital are fed by the Hands of the Huntſman or others, 'tis called, *Their Reward*. A Reward.

A Pricker, is a Huntſman on Horſeback. A Pricker.

Engines that they take Deer withal, are called, *Wiles*. Wiles.

Huntſmen, when they go drawing in their Springs at Hart-hunting, uſually make Dew-Rounds, which they call, *Ring-Walks*. Ring-Walks.

When they beat the Buſhes after a Fox, they call it *Drawing*. Drawing.

When the Fox hath young Ones in her, they ſay, *She is with Cub*. She is with Cub.

When any Deer is hard hunted, and then betakes himſelf to Swimming in any River, *&c.* The Huntſmen ſay, *He takes Soil*. He takes Soil.

When Huntſmen endeavour to find a Hart by the Slot, *&c.* and then mind his Step, to know whether he is great and long; they then ſay, *They know him by his Gate*. They know him by his Gate.

When Deer rub and puſh their Heads againſt Trees, to cauſe the Pills of their New Horns to come off, 'tis ſaid, *They Fray*. They Fray.

When Deer, after being hard run, turn Head againſt the Hounds, 'tis ſaid, *They Bay*. They Bay.

When a Roe croſſes and doubles, 'tis called, *Trajoning*. Trajoning.

When a Hare (as ſometimes, though ſeldom) takes the Ground like a Coney, 'tis ſaid, *She goes to the Vault*. She goes to the Vault.

When a Hare runs on rotten Ground, (or in a Froſt ſometimes) and then it ſticks in her Feet, 'tis ſaid, *She Carrieth*. She Carrieth.

The *Call*, is a Leſſon blowed on the Horn to comfort the Hounds. The Call.

A *Recheat*, a Leſſon likewiſe blown on the Horn. A Recheat.

The *Mort*, or *Death*, is blown at the Death of any Deer. The Mort.

The Hart and all manner of Deer are ſlain. Huntſmen commonly ſay, *Take off that Deer's Skin*. The Hare is *Stripped* or *Caſed*, and ſo is the Boar too. Stripping and caſing all manner of Chaſes.

The

From the Noſe to the Tail.

The Fox, the Badger, and all manner of Vermin, are *Caſed*, beginning at the Snout or Noſe of the Beaſt, and ſo turn the Skin over his Ears down to the Body, till you come to the Tail.

Ceremonies at the Death of a Buck or Hart.

Ware Haunch.

The Firſt Ceremony when the Huntſmen come in to the Death of a Deer, is to cry, *Ware Haunch*, that the Hounds may not break into the Deer; which having ſecured, the next is cutting his Throat, and there blooding the youngeſt Hounds, that they may the better love a Deer, and learn to leap at his Throat.

Cutting the Throat.

Blooding the Hounds.

The Mort blown.

Then having blown the *Mort*, and all the Company come in, the beſt Perſon, that hath not taken Say before, is to take up the Knife that the Keeper or Huntſman is to lay croſs the Belly of the Deer, ſtanding cloſe to the Left Shoulder of the Deer, ſome holding by the Fore-Legs, and the Keeper or Huntſman drawing down the Pizzle, the Perſon that takes Say, is to draw the Edge of the Knife leiſurely along the very Middle of the Belly, beginning near the Brisket, and drawing a little upon it, enough in the Length and Depth to diſcover how fat the Deer is.

Knife.

Taking Say of the Deer.

Then he that is to break up the Deer, firſt ſlits the Skin from the cutting of the Throat downward, making the *Arber*, that ſo the Ordure may not break forth; and then he is to Paunch him, rewarding the Hounds therewith.

Breaking up the Deer.

Rewarding the Hounds.

Next, he is to preſent the ſame Perſon that took the Say, with a drawn Hanger to cut off his Head; which done, and the Hounds rewarded therewith, the concluding Ceremony is, If a Buck, a Double, if a Stag, a Treble *Mort*, blown by One, and then a whole *Recheat* in Conſort by all that have Horns; and that finiſhed, immediately a General *Whoo, Whoop.*

Perſon to cut off the Head.

Double or Treble Mort.

A Recheat.

A General *Whoo, Whoop.*

Heretofore Leaſing was obſerv'd, and the Party receiv'd 10 *l.* and a Purſe, that is, Ten Stripes (more or leſs ſevere, according to the Nature of the Crime); and an Eleventh, that uſed to be as bad as the other Ten, called, *A Purſe.*

Ten Pounds and a Purſe for Leaſing.

There are obſerv'd to be many other Faults; as, Coming to late into the Field, and miſtaking any Term of Art; which are accounted of the leſſer Size: Of the greater Magnitude, Hallowing a wrong Deer, or leaving the Field before the Death of the Deer, *&c.*

Other ſmall and great Faults.

The Laws of the Leach or Courſing (collected from Mr. Markham's Country Contentments); *ſaid to be commanded, allowed and ſubſcribed, by* Thomas *Duke of* Norfolk, tempore Elizabethæ Reginæ; *which are alſo ſaid to have been ſubſcribed by the chief of the Gentry, as Authentical.*

Fewterer.

1. FIrſt, It was order'd, That he who was choſen Fewterer, or Letter-looſe of the Grey-Hounds, ſhould receive the Grey-Hounds Match to run together into his own Leach as ſoon as he came into the Field, and follow next to the Hare-finder, 'till he came into the Form; and no Horſeman or Footman, on Pain of Diſgrace, to go before him, or on any Side, but directly behind, the Space of Forty Yards or thereabouts.

To follow the Hare-finder, *&c.*

2. That not above one Brace of Grey-Hounds do courſe a Hare at one Inſtant.

One Brace at a time.

3. That the Hare-finder ſhould give the Hare Three Sohoes before he put her from her Lear, to make the Grey-Hounds gaze, and attend her riſing.

Three Sohoes.

4. That the Fewterer ſhall give Twelve-ſcore-Law e're he looſe the Grey-Hounds, except it be in Danger of loſing Sight.

Twelve-ſcore-Law.

5. That Dog that giveth the firſt Turn, (if after the Turn be given there be neither Coat, Slip, nor Wrench extraordinary) ſhall be held to win the Wager.

Where firſt Turn wins.

6. If one Dog gives the firſt Turn, and the other bear the Hare, then he which bore the Hare ſhall win.

One turns, and t'other bears.

7. If one gives both the firſt and laſt Turn, and no other Advantage between them, the odd Turn ſhall win the Wager.

Firſt and laſt Turn by one.

8. That a Coat ſhall be more than Two Turns, and a Go-by, or the bearing of the Hare equal with Two Turns.

A Coat.

A Go-by.

9. If neither Dog turn the Hare, then he which leadeth laſt at the Covert ſhall be held to win the Wager.

When neither gives a Turn.

10. If one Dog turn the Hare, ſerve himſelf, and turn her again, thoſe Two Turns ſhall be as much as a Coat.

Two Turns equal a Coat.

11. If all the Courſe be equal, then he which bears the Hare ſhall win only; and if ſhe be not born, the Courſe muſt be adjudged Dead.

An equal Courſe.

A dead Courſe.

12. If

Who may in Right challenge the Hare.

12. If he which comes first in to the Death of the Hare, takes her up, and saves her from breaking, cherishing the Dogs, and cleanseth their Mouths from the Wool or other Filth of the Hare for such Courtesy done, he shall in Right challenge the Hare; but not doing it, he shall have no Right, Privilege, or Title therein.

When a Dog takes a Fall.

13. If any Dog shall take a Fall in the Course, and yet perform his Part, he shall challenge the Advantage of a Turn more than he giveth.

When one Dog turns, *&c.* yet stands still.

14. If one Dog turn the Hare, serve himself, and give divers Coats, yet in the End stand still in the Field; the other Dog without Turn-giving, running home to the Covert, that Dog which stood still in the Field shall be adjudged to lose the Wager.

A Rider to receive Disgrace.

15. If any Man should ride over a Dog, and overthrow him in his Course (though the Dog were the worst Dog in Opinion); yet the Party, for the Offence, shall receive the Disgrace of the Field, or pay the Wager; for between the Parties it shall be adjudged no Course.

Or pay the Wager.

Judgment given.

16. Lastly, Those which are chosen Judges of the Leach, shall give their Judgments presently before they depart from the Field; or else he, in whose Default it lieth, shall pay the Wager by a general Voice and Sentence.

Officer to make Laws, *&c.*

And hereupon it is noted, 'That it 'lieth in the Power of him that 'hath the Office of the Leach con-'ferred on him, to make Laws ac-'cording to the Custom of Coun-'tries, and the Rule of Reason.

Of Hawks, and the Terms of Art in Faulconry.

THE Hawks that are usually flown in *England*, are placed as under-mention'd, *viz.*

Females.	*Their Males.*
Faulcon.	Tiercel Gentle.
Gerfaulcon.	Jerkin.
Mylion.	Tiercel.
Merlin.	Jack.
Hobby.	Robbin.
Gos-Hawk.	Tiercel.
Sparrow-Hawk.	Musket.
Lanner.	Lanneret.

Females the larger Birds.

And it is observ'd, That the Female of all Birds of Prey are much larger, and of greater bulk than the Male, and are reckon'd more serviceable, being more watchful, hardy and bold: But of such Birds as do not Prey, the Cocks are the larger.

Age.

The Age of a Hawk.

The First Year, *A Soarage.*
The Second Year, *An Enterview.*
The Third Year, *A White Hawk.*
The Fourth Year, *A Hawk of the first Coat.*

Arms.

Arms; are the Legs from the Thigh to the Foot.

Bate.

Bate; is when the Hawk fluttereth with her Wings, either from Pearch to Fist, *&c.* as 'twere striving to get away.

Bathing.

Bathing; is when the Hawk washeth her self at Home or Abroad.

Beak.

Beak; is the upper part of the Bill that is crooked.

Beam Feathers.

Beam Feathers; are the long Feathers of the Hawk's Wings.

Beavy of Quails.

Beavy of Quails; are a Brood of young Quails.

Bewits.

Bewits; are the Leathers with Bells, buttoned about the Hawks Legs.

Binding.

Binding; is Tyring, or when a Hawk seizeth.

Bowet.

Bowet; is when a young Hawk draweth any Thing out of her Nest, and covets to clamber on the Boughs.

Bowsing.

Bowsing; is when the Hawk drinks often, and yet continually thirsteth for more.

Branch.

Branch or *Stand*; is to make the Hawk leap from Tree to Tree, till the Dog Springs the Partridge.

Branches.

Branches; is a young Hawk newly taken out of the Nest.

Cadge.

Cadge; is that Circular Piece of Wood, on which Hawks are carried when they are expos'd to Sale.

Cancleer.

Cancleer; is when a high-flown Hawk in her stooping turneth Two or Three Times upon the Wing, to recover her self before she seizeth.

Carry.

Carry; is a flying away with the Quarry.

Cast.

Cast your Hawk to the Pearch; is to put your Hawk on the Pearch.

Casting.

Casting; is when you give your Hawk any Thing to cleanse and purge her Gorge.

Carvist.

Carvist; is Hawk, that may be so called at the beginning of the Year, and signifies as much as to carry on the Fist.

Cataract.

Cataract; is a Disease in Hawks, so called.

Cauterizing-Irons.

Cauterizing-Irons; are Irons to Seer with.

Cawking-time.

Cawking-time; is Treading-time.

Crabbing.

Crabbing; is when Hawks, standing too near, fight with one another.

Creance.

Creance; is a fine small long Line of strong and even-wound Packthread, which is fasten'd to the Hawk's Leach when she is first Lured.

Check;

Check. *Check*; that is, when the Hawk forſakes her proper Game to flie at Pies, Crows, or the like, croſſing her in her Flight.

Clap. *Clap*, is the nether Part of the Hawk's Beak.

Coping. *Coping-Irons*, are uſed in coping or paring the Hawk's Beak, Pounces or Talons, when over-grown.

Cowring. *Cowring*, is when young Hawks quiver and ſhake their Wings, in Teſtimony of Obedience towards the old Ones.

Crinets. *Crinets*, are the ſmall black Feathers like Hairs about the Sere.

Diſcloſed. *Diſcloſed*, is when the Young juſt peep thro' the Shell.

Dropping. *Dropping*, is when the Hawk muteth directly downward in ſeveral Drops, not yerking it ſtreight forwards.

Endew. *Endew*, is when the Hawk digeſteth her Meat, that ſhe not only diſchargeth her Gorge thereof, but likewiſe cleanſeth her Pannel.

Enſeam. *Enſeam*, is the Purging of a Hawk of her Glut and Greaſe.

Enter. *Enter a Hawk*, is when ſhe firſt begins to kill.

Eyeſs. *Eyeſs*, is a young Hawk newly taken out of the Neſt, not able to prey for himſelf.

Eyrie. *Eyrie*, is that Place where Hawks build, and hath their Young.

Feaking. *Feaking*, is when the Hawk wipeth her Beak after Feeding.

Filanders. *Filanders*, a Sort of little Red Worms that uſually breed in Hawks.

Flags. *Flags*, Feathers next the principal Feathers in the Hawk's Wing.

Fly on Head. *Fly on Head*, is miſſing her Quarry, and betaking her ſelf to the next Check, as Crows, *&c.*

Formale. *Formale*, is the Female Hawks.

Formica. *Formica*, a Diſeaſe in Hawks ſo called.

Frounce. *Frounce*, is a Diſeaſe common in the Mouth or Throat of an Hawk.

Gleam. *Gleam*; after a Hawk hath caſt, ſhe gleameth, or throweth up Filth from her Gorge.

Glut. *Glut*, is the ſlimy Subſtance that lies in the Hawk's Pannel.

Gorge. *Gorge*, is called in other Fowl, the Craw or Crop.

Gurgiting. *Gurgiting*, is when ſhe is ſtuff'd and ſuffocated.

Hack. *Hack*, is the Place where the Hawk's Meat is laid.

Hawk keeps her Mark. *Hawk keeps her Mark*, is when ſhe waits at the Place where ſhe lays in Partridge, or the like, until ſhe be retrieved.

Hern at Seidge. *Hern at Seidge*, is when you find a Hern ſtanding by the Water-ſide, watching for Prey, or the like.

Jack. *Jack*, is the Male-Hawk.

Jeſſes. *Jeſſes*, are thoſe ſhort Straps of Leather which are faſtened to the Hawk's Legs, and ſo to the Leaſh by Vervails, and ſuch-like.

Imp. *Imp*, is to inſert a Feather into the Wing of a Hawk, in the Place of one that is broken.

Inke. *Inke*, is the Neck from the Head to the Body of any Bird which the Hawk doth prey upon.

Inter-mewing. *Inter-mewing*, is from the firſt Exchange of the Hawk's Coat, till ſhe turn White; and this is ſo called from the firſt Mewing.

Jouketh. *Jouketh*, is when ſhe ſleepeth.

Lure. *Lure*; that is, when a young Hawk is called by the Faulconer thereunto, and is made of Feathers and Leather not much unlike a Fowl, which he caſteth up into the Air.

Leaſh. *Leaſe* or *Leaſh*, is a ſmall long Thong of Leather, by which the Faulconer holdeth his Hawk faſt, folding it many Times about his Finger.

Lean. *Lean*, is when the Hawk holds in to you.

Make-Hawk. *A Make-hawk*, is an old ſtaunch Hawk, which uſed to fly, will eaſily inſtruct a young Hawk.

Managing. *Managing a Hawk*, is to uſe her with Art and Skill.

Make out. *Make out*, is when the Hawk goeth out to check.

Mails. *Mails*, are the Breaſt-Feathers.

Manning. *Manning*, is making a Hawk endure Company.

Mantleth. *Mantleth*, is when the Hawk ſtretcheth one of her Wings after her Legs, and ſo the other.

Mew. *Mew*, is the Place where you ſet down your Hawk during the Time ſhe raiſeth her Feathers.

Muting. *Muting*, is the Excrements or Dung of a Hawk, and ſo it is of a Hern.

Mites. *Mites*, are a Sort of Vermin that trouble the Head and Nares of a Hawk.

Nares. *Nares*, are the little Holes in the Hawk's Beak.

Pearch. *Pearch*, is the Hawk's Reſting-place when ſhe is off the Faulconer's Fiſt.

Pelt. *Pelt*, is the dead Body of any Fowl the Hawk hath kill'd.

Pill or Pelf. *Pill* or *Pelf*, is what the Hawk hath left of her Prey after ſhe is relieved.

Plume. *Plume*, is the general Mixture of Feathers and Colours, by which the Conſtitution of a Hawk is known.

Plumage. *Plumage*, are ſmall Feathers given the Hawk to make her caſt.

Pluming. *Pluming*, is after the Hawk hath ſeized her Prey, and diſmantles it of the Feathers.

Pannel. *Pannel*, is the Pipe next the Fundament of a Hawk, where ſhe digeſteth her Meat from her Body.

Pantas. *Pantas*, a Diſeaſe in Hawks ſo called.

Pendant Feathers. *Pendant Feathers*, thoſe Feathers behind the Thigh of a Hawk.

Petty Singles. *Petty Singles*, are the Toes of the Hawk.

Pounces. *Pounces*, are the Claws of the Hawk.

Principal Feathers. *Principal Feathers*, are the two longeſt Feathers in the Hawk's Wings.

Pruneth. *Pruneth*, is when the Hawk picketh her ſelf.

Put over. *Put over*, is when a Hawk removeth her Meat from the Gorge into her Bowels, by traverſing with her Body, but chiefly with her Neck.

Quarry. *Quarry*, is the Fowl which the Hawk flies at, dead or alive.

Raiſed in Fleſh. *Raiſed in Fleſh*, is when a Hawk grows fat.

Rake. *Rake*, is when the Hawk flies out too far from the Fowl.

Ramage. *Ramage*, is when the Hawk is wild, and difficult to be reclaimed.

Rangle. *Rangle*, is when we give a Hawk Gravel to bring her Stomach.

Retrieve. *Retrieve*, is when Partridges, having been ſprung, are to find again.

Rouze. *Rouze*, is when a Hawk lifteth her ſelf up, and ſhaketh her ſelf.

Ruff. *Ruff*, is when the Hawk hits the Prey, and yet not truſſes it.

Rufter-Hood. *Rufter-Hood*, is a plain and eaſie Leather-Hood, being large, wide, and open behind, and is to be drawn by the Hawk when you firſt draw her.

Reclaim. *Reclaim*, is to make a Hawk tame, gentle and familiar.

Sails. *Sails*, are the Wings of a Hawk.

Sear. *Sear* or *Sere*, is the Yellow between the Beak and Eyes of the Hawk.

Seeling. *Seeling*, is when a Hawk, firſt taken, is ſo blinded with a Thread run thro' the Eye-lids, that ſhe ſeeth not, or very little, the better to make her endure the Hood.

Seizing. *Seizing*, is when a Hawk gripes her Prey, or any Thing elſe, faſt within her Foot.

Setting down. *Setting down*, is when the Hawk is put into the Mew.

Slice. *Slice*, is when a Hawk muteth a great diſtance from her.

Sliming. *Sliming*, is when a Hawk muteth without dropping.

Sniting. *Sniting*, is when a Hawk, as it were, ſneezeth.

Soar Hawk. *Soar Hawk*; that is, from the firſt taking her from the Eyries, till ſhe hath mewed her Feathers.

Spring. *Spring*, is when any Partridge or Pheaſant riſe.

Stooping, is when the Hawk is aloft upon her Wing, and then deſcends to ſtrike her Prey. Stooping.

Summ'd, is when the Hawk is in all her Plumes. Summ'd.

Swivel, is that which keepeth a Hawk from twiſting. Swivel.

Tiercel or *Vaſſel*, is the Male-Hawk. Tiercel.

Tiring, is when you give your Hawk a Leg or Pinion of a Pullet, Pidgeon, *&c.* to pluck at. Tiring.

Train, is the Tail of a Hawk. Train.

Traſſing, is when ſhe raiſeth any Fowl aloft, and ſoaring with it, at length deſcendeth with it to the Ground. Traſſing.

Varvels, little Rings of Silver at the End of the Jeſſes, whereon the Owners of the Hawk have their Names engraven. Varvels.

Unreclaimed, is when a Hawk is wild. Unreclaimed.

Unſeeling, is when you take away a Thread that runs thro' the Hawk's Eye-lids, and hinders her Sight. Unſeeling.

Unſtrike the Hood, is to draw the Strings, that it may be in a Readineſs to pull off. Unſtrike.

Unſumm'd, is when the Feathers of a Hawk are not fully grown. Unſumm'd.

Urines, are Nets to catch Hawks withall. Urines.

Warbling, is after a Hawk hath mantled her ſelf, ſhe croſſes her Wings together over her Back. Warbling.

Weathering, is when you air your Hawk in Froſt, Sun, or by the Fire-ſide. Weathering.

Whur, is the riſing and fluttering of Partridge or Pheaſant. Whur.

Laſtly, it is obſerved, That the Faulcon, Gerfaulcon, Mylion, Merlin and Hobby, do ſtoop and ſeize their Prey with their Foot, breaking with their Beak the Neck-bone of the Fowl, without pluming or tiring thereupon, till the Fowl hath left busking and baking on the Foot. Seizing of Prey by the Faulcon, *&c.*

The Goſs-Hawk, with her Male the Tiercel, and the Sparrow-Hawk, kill their Game by Strength and Force of Wing at Random, and do inſtantly plume and tire upon their Prey. By the Goſs-Hawk, Tiercel, *&c.*

Of Hunting and Hawking within the Foreſt, and who may grant Warrant or Authority to others.

By His Majeſty's Authority. THE King, and all ſuch Perſons as have any ſufficient Warrant or Authority by Grant or Charter from his Majeſty, may only hunt and hawk within the Foreſt, and no other.

Having Claim allow'd. Alſo all ſuch Perſons as have any lawful Claim allowed in Eyre, in reſpect of any Grant to hunt or hawk within the Foreſt, may uſe the ſame accordingly, provided they purſue their Authority in the ſame Manner it is granted unto them, and not miſuſe it.

But if any Knight, Eſquire, or Gentleman doth dwell within the Regard of Foreſt, and be Lord of a Manor there; yet he may not hunt or hawk therein, except he hath a lawful Claim for ſo doing allowed him in Eyre, as aforeſaid; becauſe, by the Laws of the Foreſt, no Man may hunt or hawk within any Part of the Foreſt, that is within the Regard of the Foreſt, though it be within his own Fee, except he hath a ſufficient Warrant ſo to do. Who may within the Regard.

And therefore they muſt forbear to hunt or hawk in their own Grounds, if they Not without a good Warrant.

they be within the Regard of the Foreſt, for that it is a Treſpaſs if they do ſo hunt or hawk, unleſs they have good Warrant for the ſame.

Liberty for Prelates and Noblemen to hunt in the Foreſt.

Every Prelate or Nobleman, as an Archbiſhop, Biſhop, Earl or Baron, when ſent for by the King, and coming to him by that Command, and paſſing through or by any of his Foreſts, may (by Charter of the Foreſt, *Anno* 9 *Hen.* 3. *cap.* 11.) kill one or two of the King's Deer therein by the View of the Foreſter (if he be preſent, but if the Foreſter be abſent, he muſt cauſe a Horn to be blown for him), that he ſeem not to ſteal the King's Deer; and the ſame he may do in his Return home from the King. And by this it ſeems to appear, That ſuch Prelates have, by the ſaid Charter, a lawful Licence to hunt in the King's Foreſts, with Reſtriction as aforeſaid.

Alſo in the King's Chaſes and Parks.

The Lord *Coke* in 4 *Inſtitut.* 308. ſays, We find not that any Chapter or Article of *Charta de Foreſta*, doth extend to Chaſes or Parks, but only the Eleventh Chapter, *Quicunque Archiepiſcopus, Epiſcopus, Comes vel Baro, ad Mandatum noſtrum tranſirit per Foreſtam noſtram*, &c. Which Chapter doth not only extend to Foreſts of the King, but to his Chaſes and Parks alſo; for ſo was the Law before the making of this Act, which is but an Affirmative of the Common Law of the Foreſt before this Act.

To what Nobility it extends.

1. In reſpect of the Perſons; for every Lord of Parliament, be he Spiritual or Temporal, had this Privilege, beſides thoſe that be named in this Chapter, as ſuch Abbots and Priors as were Lords of Parliament; and ſo of Dukes, Marqueſſes, Viſcounts, which were erected and created, afterwards being Lords of Parliament, have the ſame Privilege alſo.

Viz. Lords of Parliament.

2. By reaſon of the kind of Commandment, *ad Mandatum noſtrum*, ſaith the Statute, which Words hath reference to the Writ of Parliament, directed to every Lord of Parliament: *Ideo vobis Mandamus*, &c. and is a legal Commandment by Writ directed ſeverally to each and every Lord of Parliament to appear at the King's Court of Parliament, *&c.* to treat *de arduis & urgentibus negotiis Regni, Statum & Defenſionem Regni & Eccleſiæ Anglicanæ concernentibus*; and to recreate themſelves *veniendo*, and after *redeundo*, they may, paſſing by any of the King's Foreſts, Chaſes or Parks, hunt and kill one or two of the King's Deer. That the Lords of Parliament may do it at other Times *ex Gratia*, but by Law *eundo & redeundo*, to and from the Parliament.

The Reaſon thereof.

They may hunt one or two Deer.

3. Here is implied, That the Lords of Parliament may, in the Abſence of the Foreſter or Keeper, after the blowing of the Horn, kill one or two of the King's Deer *propriis ſuis Canibus, aut Arcu ſuo proprio*. Id. 309.

Propriis ſuis Canibus, &c.

4. Here is a ſecret Concluſion of Law, That albeit Spiritual Perſons are prohibited by the Canon Law to hunt; yet by the Common Law of the Land they may, for their Recreation, to make them fitter for the Performance of their Duty and Office, uſe the Recreation of Hunting, as here it directly appeareth, *&c.* And that at this Day, and Time out of Mind, the King hath had, after the Deceaſe of every Archbiſhop and Biſhop, (*inter alia*) *mutam ſuam Canum*, &c. his Kennel of Hounds, or a Compoſition for the ſame; which, and other Things, are in the *Exchequer*, called *Multa*. Ibid.

A ſecret Concluſion in Law.

5. The laſt Concluſion is, That all Canons againſt the Laws or Cuſtoms of the Realm are void, and of none Effect. *Ibid.*

Canons contrary to the Law, *&c.* are void.

Licences to Hunt or Hawk.

Things to be conſidered.

AS for Licences to hunt or hawk in the King's Foreſts, Chaſes, Parks, or Warrens, theſe Things ought to be conſider'd, *viz.*

Concerning Licences to hunt.

1. Who may grant ſuch Licences.
2. How ſuch Licences ought to be uſed.
3. The Difference between a Licence of Profit, and a Licence of Pleaſure; ſo of a Licence in Law, and a Licence in Fait.

Who may grant Licences.

1. The King being the Chief Monarch of this Realm (unto whom the Government and Regulation of Foreſts, and ſuch-like Places of Royal Paſtime and Recreation, do principally appertain) may himſelf grant Licences to hunt and hawk in any of his Majeſty's Foreſts, Chaſes, Parks or Warrens, unto any of his Subjects, according to his Royal Will and Pleaſure.

First, His Majeſty.

2. Whoſoever hath any Special Authority derived from his Majeſty in that Behalf, under the Great Seal of *England*, may in the like manner grant Licences, in ſome reſpect, and in ſome Places, to hunt and hawk in his Majeſty's Foreſts, Chaſes, Parks or Warrens; as the Lord Chief Juſtice in Eyre of the King's Foreſt may grant a Licence, or give a Warrant to any Nobleman or Gentleman that hath a Manor or Freehold therein; for the firſt to hunt or hawk in his Manor or Lordſhip, and the other in his Freehold, according to the Purport, and true

Secondly, Thoſe authorized.

As the Lord Chief Juſtice in Eyre.

true Intent or Meaning of ſuch Grant or Warrant.

A Lord of a Foreſt may, to hunt in his Foreſt.

In like-manner, a Subject that is Lord of a Foreſt may grant Licence to whom he pleaſeth, to hunt and hawk in his Foreſt: But no Perſon can grant any Licence, or give Warrant to any Man, to hunt and hawk in the King's Foreſts, other than the King himſelf, or his Chief Juſtice in Eyre of the Foreſt; or ſuch other Perſons as have the like Authority from the King, by ſome Special Grant to do the ſame. For if any of the King's Foreſters (or other Officer) ſhould attempt or preſume to do the ſame, *ex Officio*, not only ſuch Foreſter or other Officer, but all thoſe who ſhall hunt or hawk with him there by Colour of ſuch Licence or Warrant, would be all Treſpaſſers, and liable to the Puniſhment of the Foreſt-Laws: Foraſmuch as it is the Duty and Office of every Foreſter, or other Officer of the Foreſt, to preſerve and keep the King's Deer for his Majeſty's Uſe, and not to kill and deſtroy them; except he be commanded by Special Warrant ſo to do: And therefore it is not reaſonable to ſuppoſe, that they can licenſe, or give Warrant to any Perſon to hunt or kill Deer, or any other Game within their Liberty or Walk.

Special Grant.

No Foreſter *ex Officio* can.

Except commanded by Special Warrant.

No Foreſter may hawk or take Fowls of Warren, *&c.*

Neither can any Foreſter (or other ſuch Officer) hawk, or take any Fowls of Warren, as Pheaſants and Partridges, within his Walk in the Foreſt, becauſe his Office is to preſerve, and not to deſtroy them; and therefore he cannot give or grant any Warrant or Licence to another to hawk, or take any Fowls of Warren within his Walk or Liberty: For if he do, although he hold his Office by Patent from the King, or ſome other Perſon as hath Power to grant the ſame; yet is ſuch his Act ſuch a Miſuſe or Abuſe of his Authority, that it is a Cauſe of Forfeiture of his Office.

In Licences to hunt or hawk within a Foreſt, Chaſe, Park or Warren, there is this Difference to be conſidered:

Difference in Licences.

Whether ſuch Licence be of Profit, or for Pleaſure only; for a Licence of Profit is, Where a Man hath a lawful Warrant to kill and carry away with him the Game that is taken by him, either by hunting or hawking, in any of thoſe Places afore-mentioned.

Viz. Whether for Pleaſure or Profit.

But a Licence of Pleaſure is only where a Man hath a Warrant to hunt or hawk in a Foreſt, Chaſe, *&c.* yet doth not thereby acquire any Property in the Game he takes, and ſo hath not any Authority to carry away the ſame with him.

Licence of Pleaſure gives no Property.

Neither can he that hath only a Licence of Pleaſure hunt or hawk with any more Perſons in his Company than himſelf.

Cannot take Company.

But he that hath a Licence of Profit, may hunt or hawk with his Friends and Servants in his Company, and carry away to his own Uſe the Game that he hath taken.

Licence of Profit admits both.

Of Right to a Fee-Deer.

Right to a Fee-Deer.

IF any Perſon have a Right or Intereſt to have a Fee-Deer within the Foreſt, whether it be by Preſcription, as belonging to an Office, or otherwiſe, he ought to give Notice unto the Foreſter where his Warrant is to be ſerved in convenient Time, and require him to execute the ſame according to the Purport thereof.

Notice to the Foreſter.

If the Foreſter refuſe.

And if the Foreſter doth refuſe to ſerve ſuch Warrant, after Notice given unto him to execute the ſame, then may the Perſon that is to have ſuch Fee-Deer enter into the Walk of the Foreſter, ſo refuſing, with his Servants or Attendants, and there hunt, kill and take ſuch Deer as he is of Right to have, and juſtifie the ſame, both as to himſelf, his Servants and Attendants, becauſe he hath a Licence of Profit, whereby he is authorized ſo to do.

The Party with his Servants may enter, *&c.*

A Maxim in Law for him that hath a Right.

For it is ſaid to be a Maxim in the Law, That where any Perſon hath a Right or Intereſt to any Thing by the Gift or Grant of another, or otherwiſe, but cannot come by the principal Thing without doing ſome other Act, which is the neceſſary Means to acquire the ſame; in ſuch Caſe he may lawfully do that other Act, which is the neceſſary Means to come by the principal Thing.

Example.

And ſo it was adjudged, *Mich* 13 *H.* 7. in an Action of Treſpaſs brought againſt one for hunting in the Plaintiff's Park; for otherwiſe, if the Foreſter or Keeper do refuſe to kill and deliver ſuch Fee-Deer to the Perſon who hath a Right unto the ſame, if ſuch Perſon might not juſtifie the killing and taking the Fee-Deer himſelf, he would be without Remedy to come by the ſame; and therefore the Law hath provided the Remedy for the Party to enter and take the ſame in Manner as aforeſaid.

Elſe the Party would be Remedileſs.

Therefore 'tis juſtifiable by Law.

And this is juſtifiable, as well by the Laws of the Foreſt, as by the Common Law of the Realm; for in the Tenth Article of the *Aſſize of the Foreſt*, it is ſaid, 'If any Body ſhall take a Beaſt of 'the Foreſt in the ſame without War-'rant, his Body ſhall be arreſted where-

ſoever

'ſoever he be found within the Bounds 'of the Foreſt.

Uſe a ſufficient Authority.

Whereby it appears, that he who takes a Deer of the Foreſt without a Warrant, is puniſhable for the ſame by the Laws of the Foreſt: Nevertheleſs, he that hunts and kills a Deer within the Foreſt by lawful Warrant, ſhall not therefore be puniſhed by any Law; alſo the Intereſt or Right of ſuch Perſon as hath uſed to have Fee-Deer, is a ſufficient Warrant in Law to the Foreſter, or Keeper, to kill and deliver the ſame unto ſuch Perſon, if he will; but if he refuſe, then the Party himſelf, with his Aſſiſtants, may lawfully do the ſame.

The Licence to be conſider'd.

From whom.

To whom.

And to what Purpoſe.

However, every ſuch Licence ought to be ſtrictly conſider'd; Firſt, By whom it was made, and whether he that made the ſame had Power to grant ſuch Licence or Warrant. Secondly, Unto whom the ſame was made, and for what Thing, what Time, and what Place. Third, Whether it be only a Licence of Pleaſure for the Party unto whom it was granted, meerly to divert himſelf in the Foreſt, Chaſe or Park, or a Licence of Profit, whereby the Party obtains a Property in the Thing granted, and hath Liberty to Hunt or Hawk with his Servants or Attendants, and to kill and carry away with him the Game he takes Virtue of ſuch Licence.

Requiſites to be punctually obſerv'd.

All which Things ought to be punctually obſerv'd and purſued, according to the Nature of the Licence or Warrant; that the Party to whom the ſame is granted may avoid the Imputation of being accounted a Treſpaſſer, and therefore rather to be puniſhed, than encouraged.

Licences in Law, and Licences in Fait.

3. The Third Particular is divided, and relates to Licences in Law, and Licences in Fait or Deed. The Firſt whereof, is a Licence by Word of Mouth without Writing, or by a Preſcription, as belonging to ſome Office within the Foreſt; and the other is a Licence reduced into Writing under Hand and Seal, ready to be produc'd upon any Occaſion, as the ſame is required.

A Licence in Law by Word only, is valid.

Alſo it is to be obſerv'd, That a Licence in Law by Word only, without Writing, is held to be as valid from one Subject to another, as any Licence in Writing; but it hath been queſtion'd whether it be ſo between the King and a Subject, becauſe it is ſaid, the King doth neither grant or take any Thing but by Matter of Record.

Juſtification by the King's Command.

Yet by the Opinion of the Judges in *Eaſter* Term, 4 *Hen.* 7. the King may give many Things without Writing that ſhall be good, as to Chattels: And in *Michaelmas* Term, 39 *Hen.* 6. the Defendant in Treſpaſs did plead Juſtification by the King's Commandment, by Word of Mouth only, without Writing; and it was held a good Juſtification.

Therefore the King's Licence by Word, valid.

And therefore, inaſmuch as Hunting without Licence is but a Treſpaſs at moſt, if a Man may plead the King's *Commandment*, by Word only, in bar of ſuch a Treſpaſs; by the ſame Parity of Reaſon he may plead the King's *Licence*, by Word only, in bar of a Treſpaſs: But in the other Caſe of a Subject, it is without Diſpute; That if a Subject, being Owner of a Foreſt, Chaſe, or Park, do Licence any one to hunt in them by Word, without Writing, ſuch Licence is good and lawful.

It is ſo between Subjects.

Puniſhment of ſuch as Hunt without Warrant.

Treſpaſſers taken in the Manner, to be arreſted.

AS to the Puniſhment of Treſpaſſers in Foreſts, that hunt therein without any lawful Colour or Warrant for ſo doing; if any Foreſter or Keeper ſhall find or take any ſuch Perſon or Perſons in the Manner, he ſhall arreſt their Bodies, and carry them to Priſon, from whence they ſhall not be deliver'd without Special Warrant from the King, or his Majeſty's Juſtices in Eyre of the Foreſt, according to the Aſſizes and Cuſtoms of the Foreſt, *Anno* 6 *Ed.* 1. *Art.* 10. But ſee 1. *Ed.* 3. *Stat.* 1. *cap.* 8. where they are bailable, if not taken in the Manner.

Aliter, bailable.

If only hunting, yet puniſhable.

And though the Words there be, [*If any one ſhall take a wild Beaſt of the Foreſt*] yet, notwiththſtanding, if any Perſon be taken Hunting in the Foreſt, he is to be puniſhed by the Law, as if he had kill'd and taken a wild Beaſt of the Foreſt, for in that Caſe the Will ſhall be taken for the Deed; as it was adjudged in the Aſſizes of the Foreſt of *Pickering*, in the Time of *Edw.* 3. *viz.*

The Will taken for the the Deed.

That if one enters into a Foreſt with a Bow and Arrows, or with Grey-Hounds, with an Intent to treſpaſs there; notwithſtanding he doth commit no Act, yet he ſhall be puniſh'd as if he had done ſome Act, for the Reaſon aforeſaid: As it appears by the ſame Aſſizes, that an Abbot was, who lent a Bow and Arrows to one to kill the King's Deer; and notwithſtanding there was no Act done, yet the Abbot was fined, and ranſomed.

Treſpaſſer not to be arreſted, unleſs, *&c.*

And therefore, if a Foreſter or Keeper ſhall find any Perſon within the Foreſt, either with Bow and Arrows, or with Grey-Hounds, intending to offend

there, he ſhall arreſt and impriſon him, as if he had committed the Fact he intended; but the Body of ſuch Offender ſhall not be arreſted, unleſs he ſhall be taken in the Manner, which (as before-mentioned) may be in one of theſe Four Ways, *viz.*

Four Ways taken in the Manner.

1. Stable-ſtand.
2. Dog-draw.
3. Back-bear; or,
4. Bloody-Hand.

Stable-ſtand. 1. The Firſt whereof is, when any Perſon is found ſtanding in the Foreſt with a Bow ready bent to ſhoot at any Deer, or with his Grey-Hound in a Leach ready to ſlip; this the ancient Foreſters call *Stable-ſtand.*

Dog-draw. 2. The Second is, when one hath hurt or wounded a Deer, or other Beaſt of the Foreſt, by ſhooting at him either by Bow or Gun, and the Foreſter finds ſuch Offender drawing after the Beaſt with a Hound to recover it; this by the Foreſt-Law is called, *Dog-draw.*

Back-bear. 3. The Third is, where one hath ſlain a wild Beaſt in the Foreſt, and the Foreſters diſcover him as he is carrying away the ſame; this they call, *Back-bear.*

Bloody-Hand. 4. The Fourth and laſt, *viz. Bloody-hand,* is where one is found courſing in the Foreſt, with the Blood of any Deer, or other Beaſt of the Foreſt upon him; or is in any manner beſmear'd with ſuch Blood, after Courſing; or is otherwiſe found in the Foreſt imbrewed with Blood in any ſuſpicious manner, although he be not ſeen to hunt or courſe there.

Arreſting and impriſoning ſuch Offenders.

And all theſe are ſaid to be taken with or in the Manner; and ſuch Offenders ſo found, or taken by the Foreſters, are to be arreſted by their Bodies, if it may be, and alſo be impriſon'd until they be delivered by the King's Special Commandment, or his Juſtice in Eyre of the Foreſt.

To be puniſhed by Fine, *&c.*

Alſo they are to be puniſhed at the Court of Juſtice-Seat by Fine, at the Diſcretion of the Juſtice in Eyre there, and impriſon'd until they have paid the ſame, and then be bound there to their good Behaviour towards the Foreſt for ever afterwards.

And bound to good Behaviour.

After a lawful Trial and Conviction.

But this Puniſhment cannot be executed in every Point, but only by a Judicial Sentence pronounced by the Juſtice in Eyre, at his Juſtice-Seat there: In which Caſe the Party is always firſt convicted of the Offence by a lawful Trial, according to the Foreſt-Law.

Abettors and Receivers of Treſpaſſers.

Receiver as bad as the Thief.

IF any Perſon receives Veniſon of one that hath unlawfully come by the ſame, as a Treſpaſſer in the Foreſt, the Receiver ſhall be puniſh'd as well as the Giver. *Vide* 4 *Co. Inſt.* 317.

Horſe carrying ſtolen Veniſon, forfeited.

Alſo by the Aſſizes of the Foreſt, he that ſtealeth Veniſon therein, and carries away the ſame upon his Horſe, the Horſe ſhall be forfeited; but if ſuch Malefactor takes the Horſe of a Stranger, and carries his ſtolen Veniſon away upon the ſame, if ſuch Stranger be ignorant of the Fact, his Horſe ſhall not be forfeited. *Itin. Pick. fo.* 3.

Abettors and all Treſpaſſers are Principals.

Again it appears, by *Hill.* 13 *Hen.* 7. That if one commands another, or divers, to commit a Treſpaſs in the King's Foreſt, Chaſe, Park or Warren, as to hunting or chaſing of Deer, or other Beaſts or Fowls; in ſuch Caſe, he that commands the other to do ſuch unlawful Act, is as much a Principal as they that commit the Treſpaſs; for in Treſpaſſes of the Foreſt all are Principals, and there are no Acceſſories as at Common-Law. *Vide* 4 *Co. Inſt.* 317.

Negligent Foreſters, *&c.* may forfeit their Office.

And further it is to be obſerv'd, That if a Foreſter, Keeper, or other Miniſter of the King's Foreſt, Chaſe, Park or Warren, that hath the Care and Charge of the King's Game, and by his Negligence will not attach or apprehend ſuch Treſpaſſers, *&c.* it is a Forfeiture of his Office.

All Dwellers, *&c.* to help to apprehend Offenders.

And not only the Foreſters and Miniſters of the Foreſt, but every other Perſon dwelling within the Foreſt, is likewiſe to do his utmoſt Endeavour to attach and apprehend ſuch Offenders and Treſpaſſers in Foreſt; and if he cannot take them himſelf, he is to cauſe Hue and Cry to be made after them, to the End they may thereupon be taken, as if they were Felons.

And cauſe Hue and Cry.

Offenders refuſing to yield.

And if upon ſuch Hue and Cry made, the Offenders do ſtill continue in their Offences, or do flie or defend themſelves with Force, and will not keep the Peace, nor yield themſelves when required ſo to do; in ſuch Caſes, if any Man, coming to the Aſſiſtance of the Foreſters, ſhall chance to kill any ſuch Offender within the Bounds of the Foreſt, he ſhall not be arraign'd for the ſame before the King's Juſtices, or any other his Miniſters of Juſtice, but ſhall be thereof acquitted, as if no ſuch Act had been done.

May be kill'd.

And if the Foreſters, and thoſe with them, cannot apprehend ſuch Offenders in the Foreſt, by Reaſon of their flying out of the ſame; then may they follow

ſuch

Freſh purſuit in View out of the Foreſt.

ſuch Offenders with freſh Purſuit (being ſtill within View but not otherwiſe) out of the Foreſt, and there apprehend them; but then they cannot uſe ſuch Severity and Force with ſuch Offenders as they might do, if they were within the Limits of the Foreſt.

Their Names, *&c.* to be inquired after, and preſented.

And therefore the uſual Way is (in Caſe ſuch Offenders cannot be taken without Danger) for the Foreſters to inquire and find out their Names, with the Places of their Abode, and preſent them to the next Swainmote or Court of Attachments, that they may be proceeded againſt according to the Law of the Foreſt.

Deſtroying of Hawks and Eyries.

And Laſtly, if any take Hawks or deſtroy Eyries of Hawks in the King's Woods, it is a Treſpaſs againſt the Aſſizes of the Foreſt; and the Offenders ſhall make Fine for the ſame. *Vide Intin. Lanc. fo.* 7.

Proceſs to the Outlawry againſt Offenders.

There is alſo a Method of proceeding againſt Offenders in Foreſts and Pourallees, by way of Outlawry, which is after this Manner: If any Perſon be preſented for an Offence committed within the Foreſt, or the Pourallees thereof, at either of the Courts of Attachment or Swainmote, and ſuch Offender do dwell in a Foreign County out of the Foreſt, ſo that the Foreſters may not attach him to anſwer the ſame, then he may be Outlawed, according to the Proceedings at the Common Law, *viz.* He muſt be exacted, or called to appear and render his Body at Five County Courts: And when he is exacted, or call'd the Fifth Time to appear, the Coroner of the County, where the Proceedings were made, will for his not appearing pronounce him Outlawed; and ſo he may be taken as an Outlaw whereſoever he can be found, and ſhall forfeit all his Goods and Chattels to the King, and alſo the Profits of his Lands, by Inquiſition of the Sheriff and Coroners.

Of the Purlieu or Pourallee of the Foreſt, and who may hunt therein; when, how often, how far, and in what Caſes, according to Mr. Manwood's Foreſt-Law, *cap.* 20.

What a Purlieu or Pourallee is, and how in ſome Senſe.

IT is ſhew'd before, that a Purlieu or Pourallee is a Circuit of Ground adjoining unto the Foreſt; which compaſs of Ground was once Foreſt, and afterwards diſafforeſted by the Perambulations made for the ſevering the New Foreſts from the Old.

It remains Foreſt ſtill.

But yet that they were not ſo diſafforeſted to every Man, but that they do in ſome Senſe continue Foreſt ſtill as to ſome Perſons, though diſafforeſted in ſome Sort as to others.

It is only diſafforeſted as to the Owners. *Sed vide Poſtea.*

For by the Words of *Charta de Foreſta*, if the King had afforeſted any Woods or Lands of his Subjects, to the Damage of the Owners, they were to be diſafforeſted again; that is, only as to thoſe Perſons whoſe Woods and Lands they were: Who, as the proper Owners thereof, might fell and cut down their Woods at their own Pleaſure, without any Licence from the King; as alſo convert their Meadows and Paſtures into Tillage, or otherwiſe improve their Grounds to the beſt Advantage.

How they may hunt and chaſe, *&c.*

In like manner they might hunt and chaſe the wild Beaſts of the Foreſt towards the ſame, ſo that they did not foreſtall them in their Way thither.

But 'tis Foreſt as to Strangers.

But yet no other Perſon could claim ſuch Benefit in the Pourallee, but only the proper Owner of the Soil thereof: So that the ſame remains Foreſt ſtill, as to all thoſe that have no Property in the Lands therein.

And may again be turn'd into Foreſt.

For it appears, as before, That the Owners of the Woods and Lands therein may ſuffer the Pourallee to remain Foreſt ſtill, if they be ſo minded, notwithſtanding ſuch Diſafforeſtation, (as by Statute 33 *Ed.* 1. *cap.* 5.) and ſome have done ſo for the Benefit of Common within the Foreſt, which otherwiſe they were excluded from, as Pourallee-Men.

The King's Property in Beaſts wandering.

And this doth prove, that the Woods and Lands in the Pourallee are diſafforeſted only for the Owners thereof, and not for every one to hunt and ſpoil the wild Beaſts there at his Pleaſure; for if the Beaſts chance to wander out of the Foreſt into the Pourallee, yet the King hath a Property in them ſtill, againſt every Man but the proper Owner of the Grounds wherein they are, for ſuch Perſon hath a Property in them, *Ratione Soli*; but yet ſo as he may only take them by Hunting, or Chaſing with his Grey-Hounds or Dogs, without any foreſtalling or foreſetting in their Courſe back again towards the Foreſt.

But yet the Pourallee Owner may chaſe, *&c.*

Rangers of the Pourallees to Rechaſe the King's Deer.

For the King hath always Rangers in the Pourallee, to attend ſuch wild Beaſts of the Foreſt as comes there to rechaſe them back again into the Foreſt; which proves, that though the wild Beaſts of the Foreſt do by chance ſtray into the Pourallee, yet the King hath a Property ſtill in them, or otherwiſe the Ranger could have no lawful Authority to make ſuch a Rechaſe.

None may preſcribe under the Owner to chaſe, *&c.*

And by *Hill.* 13 *Hen.* 7. *fo.* 16. *Pl.* 14. it appears, That though a Man may preſcribe to chaſe the wild Beaſts of *J. S.* in the

the Ground of *J. S.* yet he may not preſcribe to chaſe the King's wild Beaſts in that Ground, ſuch as are the wild Beaſts which ſtray out of the Foreſt of the King into the Pourallee.

None may hunt, *&c.* A Hart proclaim'd.

Alſo it appears in *Paſch.* 7 *Hen.* 6. *fol.* 36. *Pl.* 41. That if a Hart go out of the King's Foreſt, the Foreſters may follow him, and make Proclamation in the adjacent Towns, That no Man preſume to hunt or ſtay him; after which, it is not lawful for any one to moleſt ſuch Hart.

The Pourallee-man may not foreſtall, *&c.*

Whereby it appears, that though ſuch wild Beaſts be out of the Foreſt, and in the Pourallee, yet nevertheleſs the King hath ſtill a Property in them; and this proves, that the Pourallee is in ſome Senſe a Foreſt ſtill, for the King's wild Beaſts to have their free Concourſe in, and ſafe Return to the Foreſt without Moloſtation of any Perſon, except the Owner of the Grounds in the Pourallee; who, when he finds them there, may rechaſe them towards the Foreſt, provided he do neither foreſtall or foreſet them in their Way thither.

A further Difference.

Again, there is this further Difference to be obſerv'd between a Foreſt and the Purlieu or Pourallee, *viz.* That all the

Woods within the Regard, *&c.*

Woods and Lands within the Regard of the Foreſt, are abſolutely within the Bounds and Charge of the Foreſt, as well in Reſpect of the Owners thereof, as of any other Perſon.

May not be cut down without Licence.

For no Perſon may cut down his own Woods, or improve his own Grounds within the Regard of the Foreſt, without Licence from the King, or his Chief Juſtice in Eyre of the Foreſt.

Nor the Beaſts there hunted.

Neither may any Perſon in any wiſe hunt, chaſe or moleſt, the wild Beaſts of the Foreſt in his own Grounds, within the Regard of the Foreſt, without Licence or Warrant from the King ſo to do, or from his Chief Juſtice of the Foreſt.

Pourallee-Men are not ſubject to the Bondage of the Foreſt.

But thoſe whoſe Grounds are within the Pourallees, are not ſubject to the Bondage of the Foreſt, inaſmuch as their Lands are without the Regard of the Foreſt; and therefore they may cut down their own Woods, convert their Meadows and Paſtures into Tillage, and otherwiſe improve their Eſtates there to the beſt Advantage, at their Pleaſure, without Licence or Warrant for ſo doing.

Yet Pourallees are not abſolutely Free.

And yet the Woods and Lands in the Pourallees are not abſolutely freed from the Bondage of the Foreſt, in Reſpect of the wild Beaſts having their Haunts therein, when they happen to ſtray out of the Foreſt: And therefore, as they were once abſolutely Foreſt, ſo they are ſtill in ſome Senſe; that is to ſay, conditionally Foreſt, and not abſolutely Free.

Lands abſolutely Free, if not too near the Foreſt.

But as to ſuch Lands which neither are, or never were either Foreſt or Pourallee, but always abſolutely Free; if they adjoin not too near unto the Limits of the Foreſt, it is lawful for any Perſon that is Owner of ſuch Lands, (provided he be qualified by Law to keep Grey-Hounds) to hunt and chaſe with his Dogs ſuch wild Beaſts as he ſhall find therein; but he muſt take Care that he do not Foreſtall them in their Return to the Foreſt. *Manw.* 371. *&c.*

Purlieu, from whence derived.

Now again concerning Purlieus, it may be obſerv'd, from 4. *Co. Inſt.* 303. That *Purlieu* is the right Name of the Place (that was diſafforeſted by *Charta de Foreſta*, and the Perambulations and Grants thereupon) being derived from the *French* Adjective *Pur*, ſignifying clear, intire, and exempt; and the Nown *Lieu*, *i. e.* a Place, that is, a Place entire, clear, or exempt from the Foreſt; and that the Word *Pourallee*, i. e. *Perambulatio*, ſignifies the Perambulation, whereby the Purlieu was diſafforeſted: So that the Purlieu and Pourallee are Two diſtinct Things.

Difference between Purlieu and Pourallee.

What Chaſes cannot have Purlieu.

That by this it appears, That Chaſes that were never any Foreſts cannot have any Purlieu, and that conſequently the Caſe, 16 *Eliz. Dier* 326. is miſtaken.

That the Owners of Purlieus may diſpoſe thereof.

That by this Diſafforeſtation, the Owners of the Grounds within the Purlieu may at their Will and Pleaſure fell, cut down, eradicate, and ſtub up, all the Timber, Woods and Under-Woods, convert their Paſtures, Meadows and other Grounds, to Arable, incloſe them with any kind of Incloſure, build and erect new Edifices upon the ſame, or any Part thereof, and to diſpoſe and uſe the ſame after the Diſafforeſtation, as if they never had been diſafforeſted.

The Miſtake of them that ſay, the Purlieu is diſafforeſted, *quoad* the Owner only.

And that whereas ſome have conceiv'd, that *quoad* the Owners of the Soil, the Purlieu is diſafforeſted, but not as to others; but as to them it ſhould remain a Foreſt, by Reaſon of the Words in the Firſt Chapter, *Ad Dampnum illius cujus Boſcus illus fuerit*; That thoſe Words were added to ſhew the Unlawfulneſs of the Afforeſtation, becauſe it was *ad Dampnum*, *&c.* And then, ſays he, theſe Men muſt make a Diverſity between a Deafforeſtation, by force of the Firſt Chapter of Afforeſtations, in the Reign of K. *Henry* II. and Deafforeſtations, made by Force of the Third Chapter of Afforeſtations, in the Reign of K. *Richard* I. and K. *John*; for there the Clauſe of *ad Dampnum* is omitted; and therefore thoſe Afforeſtations are utterly made void againſt all Men.

Who may properly be ſaid to be a Purlieu-man, and that may lawfully hunt in the Pourallee; according to Mr. Manwood's Law For. cap. 20.

The Qualification of a Pourallee-hunter. See after.

NOw notwithſtanding the Pourallee be Foreſt ſtill to ſuch Perſons as have not any Lands of Inheritance therein, ſo that they cannot pretend to hunt, chaſe, or courſe therein, without rendering themſelves liable to Puniſhment; yet ſuch as have Lands there, to that Value as the Law requires, they may keep Grey-Hounds; and when they find the wild Beaſts of the Foreſt within their Grounds in the Pourallee, they may chaſe them towards the Foreſt, for as they are Owners of thoſe Grounds, they have Property in ſuch wild Beaſts, *Ratione ſoli*, ſo long as they are in the ſame.

Property, *Ratione ſoli.*

When he may purſue his Chaſe.

So that if they do firſt make their Courſe in their own Grounds within the Pourallee, they may purſue their Chaſe through every Man's Grounds; but if the wild Beaſts do make towards the Foreſt, they muſt not foreſtall or foreſet them, either with Dogs, Guns, Croſs-Bows, Long-Bows, Hags, or any other Engine whatſoever, but ſuffer them to have their free Paſſage thither; for all ſuch Foreſtalling or Foreſetting is abſolutely forbidden by the Aſſizes of *Woodſtock*, made *Anno* 30 *Hen.* 2. on Pain of ſuffering a Years Impriſonment, and making Fine at the King's Diſcretion.

But no Foreſtalling.

Penalty.

His Eſtate, or Degree.

By the Statute, 13 *Rich.* 2. *cap* 13. He that may lawfully hunt in any Pourallee, ought to have Woods or Lands of Freehold within the ſame, to the Yearly Value of 40 *s.*

By *Stat.* 1. *Jac.* 1. *cap.* 27.

And according to *Stat.* 1 *Jac.* 1. *cap.* 27. he ought to have Lands of Inheritance of the Yearly Value of 10 *l.* or Lands of Freehold of the Yearly Value of 30 *l.* or have Goods worth 200 *l.* or be the Son of a Knight or Baron, or Perſon of a higher Degree, or Son and Heir Apparent of an Eſquire. (Theſe Two Acts being General, as to Perſons keeping Grey-Hounds, *&c.* the Concluſion, as to the Pourallee-man, are drawn by Conſequence.)

Former Liberties reſtrain'd.

And therefore it may as well be here noted, That by an Act made 22 and 23 *Car.* 2. *cap.* 25. No Pourallee-Man may keep Grey-Hounds within the Pourallee, or elſewhere, within *England* or *Wales*, other than he that hath Free Warren, or is Lord of a Manor; or is ſuch a Freeholder as is ſeized in his own Right, or the Right of his Wife, of Lands, Tenements or Hereditaments, of the clear Yearly Value of 100 *l.* or of Lands, Tenements or Hereditaments, in his own Right, or in the Right of his Wife, (for Term of Life or Lives)

And the Value of the Eſtates advanced.

of the Yearly Value of 150 *l.* for ſo that Act runs.

Which is the Reaſon of the Concluſion drawn as before, That no Perſon may hunt in his own Pourallee, with Grey-Hound or other Dog, that is likely to kill any Beaſt of Venary or Chaſe, except he may expend according to the Rate laſt mentioned, by the Year of Free-Lands within the Pourallee or otherwiſe, as is laſt before declared; though this Statute is general to all Perſons.

And for that Reaſon it is inſiſted, That the Pourallee is alſo called *Purluy*, that is ſaid to be, for him that is ſo qualified, but ſo that he always begin his Courſe in his own Grounds within the *Pourallee*; from whence alſo it hath the Name of *Purlieu*, i. e. for the Place by which is meant for his own Grounds in particular, but not generally every Place or every Man's Ground.

Purluy.

Pourallee.

Purlieu.

Though one unqualified may not hunt.

And hence (ſay they) ariſeth the Difference between a Pourallee-man, and one that hath Grounds within the Pourallee; for notwithſtanding a Man hath Grounds within the Pourallee, yet if he be not qualified by Law, according to the Statutes before-mention'd, he is no Pourallee-man.

Yet he may chaſe the Deer out.

Yet, notwithſtanding, that if he finds any wild Beaſts of the Foreſt in his own Grounds, he may chaſe them thereout with little Dogs, but not with Grey-Hounds, or other great Dogs, as it doth appear in 43 of *Ed.* 3. of the Earl of *Arundel*. *Manw.* 373.

But he that has no Eſtate there, may not.

And therefore by conſequence it is concluded, That if a Man have no Eſtate of Inheritance within the Pourallee, either in Lands or Woods, then it ſeems he cannot pretend to any Privilege therein, but is utterly excluded from Hunting or Chaſing there: And to ſuch Men, the Pourallee is abſolutely Foreſt ſtill. *Manw. ut ſupra.*

When a Pourallee-man may let ſlip and hunt.

And then it follows to this Purpoſe, *viz.* That if a qualified Pourallee-man finds any wild Beaſts of the Foreſt within his own Grounds in the Pourallee, he may let ſlip his Dogs at them, and hunt and chaſe them towards the Foreſt; but he muſt take heed he do not hinder their Return to the Foreſt, as was before obſerv'd.

His Property is upon a Condition.

For though he finds ſuch wild Beaſts in his own Pourallee, and in Reſpect thereof hath a Property therein, *Ratione ſoli*, againſt all Perſons but the King; nevertheleſs ſuch his Property is only upon this Condition, *viz.* That if he can ſlay them with his Dogs in Chaſe

without foreſtalling, and before they can recover the Foreſt, then they are abſolutely his; but if they once recover the Foreſt, tho' they be but within the Liſt of the Foreſt, before the Dogs faſten upon them, then they belong to the King, or other Owner of the Foreſt.

When he may purſue the Chaſe to the Foreſt.

But if ſuch a Pourallee-man doth firſt begin the Chace in his own Freehold, he may purſue the ſame thro' every Man's Ground within the Pourallee, provided he enter not into the Foreſt; yet if the Dogs, in chaſing them towards the Foreſt, faſten upon one of them before it can get into the Foreſt, or the Limits thereof, and the wild Beaſt by Force draws the Dogs, as they hang upon him, into the Foreſt; and if, being a conſiderable Space within the ſame, the Dogs ſlay the wild Beaſt: In this Caſe, by Reaſon of the firſt Property the Pourallee-man had in the Beaſt, *Ratione Soli*, and likewiſe by the Purſuit, and Poſſeſſion thereof by his Dogs before it got into the Foreſt, he may follow his Chaſe into the ſame, and there take and carry away the Beaſt, becauſe he was actually poſſeſſed thereof by his Dogs (being in the Nature of Servants) as of his own proper Goods, before the Beaſt could recover the Foreſt. *See after*, for Recalling his Dogs.

When into the Foreſt.

When he begins his Chaſe in another Man's Ground.

But if a Pourallee-man begin his Courſe in another Man's Ground, where the wild Beaſts of the Foreſt are within the Pourallee; if his Dogs faſten upon a wild Beaſt before it can get within the Bounds of the Foreſt, and the Beaſt draws the Dogs into the Foreſt, and is there ſlain by them: Here the Pourallee-man may not enter into the Foreſt, nor take the Beaſt ſo kill'd, becauſe his Courſe was wrongful from the Beginning; for he could claim no Property in the Beaſt, *Ratione Soli*, becauſe he began his Chace in another Man's Ground; and this appears by *Mich.* 12 *H.* 8. *fo.* 10.

He is a Treſpaſſer.

And therefore, if he come not within the Limits of the Foreſt, yet he ſhall be deemed a Treſpaſſer there, upon account of his Dogs entring therein, and killing a wild Beaſt there; and he having no Right or Intereſt to chaſe in the other Man's Grounds, where he began his firſt Courſe, cannot juſtifie ſuch Act, as done by a lawful Pourallee-man.

Flying a Faulcon in a Man's own Wood, and killing the Game in anothers.

So if a Man lets fly his Faulcon at a Pheaſant in his own Wood, he may purſue the Flight after the Pheaſant into any other Perſon's Ground; and notwithſtanding his Faulcon kills the Pheaſant in the other Perſon's Ground, yet the Maſter of the Faulcon ſhall have the ſame, and not the Owner of the Ground where it was kill'd.

The Pourallee-man muſt hunt with his own Servants.

Alſo it is further to be obſerv'd, That a Pourallee-man ought to hunt his own Pourallee himſelf, with no more Company than his own Servants; neither may he appoint, licenſe, or warrant any other Perſon (except his Servants in his Preſence) to hunt by his Commandment in his Pourallee; for the Authority that he hath, is but a Conditional Licence or Profit, which is ſtrictly annexed to his Perſon, and cannot be transferr'd to another.

He cannot licenſe any other.

Where a Licence goes ſtrictly to the Perſon.

As in *Aſhton*'s Caſe, *Mich. Ed.* 4. *fo.* 14. *Pl.* 12. If one grant me Licence to hunt and kill a Buck in his Park, and afterwards to diſpoſe of the ſame, my Servants cannot juſtifie killing the Buck by my Commandment, becauſe the Licence goes ſtrictly to me, unto whom it was granted, and to no other Perſon whatſoever.

When a Pourallee-man ought to recall his Dogs.

Alſo a Pourallee-man, when he lets ſlip his Dogs at the wild Beaſts of the Foreſt in his own Grounds, and his Dogs do ſtill purſue their Courſe towards the Foreſt, he muſt take Care, before they enter the ſame, to recall them back; for otherwiſe, if they happen to kill that Beaſt, or any other in the Foreſt, he will be accounted a Treſpaſſer that kills Deer within the Foreſt; but if he calls back his Dogs before they enter the Foreſt, he will be excuſed, tho' they ſhould happen to kill a Deer therein, provided he enter not into the Foreſt, nor meddle with the Deer ſo killed; for this differs from the Caſe, where the Dogs faſten, and are drawn into the Foreſt by the Deer.

Or is a Treſpaſſer.

He ought not to hunt, Deer, *&c.*

Moreover, no Pourallee-man may hunt or kill any raſcally Deer that are out of Seaſon, which he ſhall find at any Time in his *Pourallee*, ſuch being ſeldom able to ſtand Courſe, or ſhift for themſelves; and when dead, are good for nothing.

He ought not to hunt in the Night.

That no Man ought to hunt in the *Pourallees* in the Night, *viz.* after Sun-ſetting, and before Sun-riſing, for the wild Beaſts may not be diſturbed of their peaceable Feeding and Reſt in the Night within the Foreſt; and 'tis utterly impoſſible to hunt in the *Pourallees* in the Night, without diſturbing the wild Beaſts in the Foreſt, by the Noiſe of the Dogs running at the Deer: Alſo the Terror of thoſe Deer, that are then affrighted out of the *Pourallees* into the Foreſt, will, in a great Meaſure, diſquiet, and abundantly terrifie thoſe wild Beaſts that are within the Foreſt.

The Reaſon.

Wild Beaſts to feed in the Night.

And in the Day keep Covert.

Beſides, it is the Nature of thoſe wild Beaſts to ſeek their Food in the Night-time, being a Time of Reſt, when no Body is ſtirring to moleſt or diſturb them: For all the Day they confine themſelves to their Coverts, being afraid of the Noiſe which is made by all Sorts of People that are then abroad about their Buſineſs and Occaſions; ſo that then they cannot feed quietly, or with that Liberty and Freedom they delight in. And therefore by the Thirteenth Article of the *Aſſizes of* Woodſtock, Hunting in the *Pourallees* or other Places in the Night-time is expreſly forbidden.

Alſo

He may not hunt on *Sundays*.

Alſo no Pourallee-man may hunt on the Lord's Day, commonly called *Sunday*, by the Laws of the Land: And he is forbidden by the Laws of the Foreſt to hunt in his own Grounds in the *Pourallee* every Day, or oftner than three of the other ſix Days in any one Week; leſt with the Noiſe and Terror of their often hunting in the *Pourallees*, the wild Beaſts of the Foreſt be diſquieted, and put from their Food and wonted Layer.

But only three Days in a Week.

He muſt not hunt in the Fence-Month.

All *Pourallee-men* are forbidden by the Laws of the Foreſt to hunt in their *Pourallee*, during the Continuance of the Fawning or Fence-Month, which begins Fifteen Days before *Midſummer*, and ends Fifteen Days after; for then either the Fawns being very young, or the Does big-bellied, are neither able to run or ſtand a Courſe: And therefore hunting in that Time, the Dogs peradventure purſuing their Chaſe into the Foreſt, may make great Deſtruction of the King's Deer therein; and for that Reaſon, this Space of Time is called the *Forbidden Month*, wherein no Man may either hunt in the Foreſt or *Pourallee*.

The Reaſon.

He may not hunt within 40 Days before a General Hunting (proclaimed by the King).

Alſo no Man may preſume to hunt within Seven Miles of the Borders of the Foreſt, or in his own *Pourallee*, within Forty Days next before the King hath iſſued out his Proclamation, declaring his Royal Will and Pleaſure to make a General Hunting in that Foreſt; becauſe that during all that Time, the wild Beaſts of the Foreſt ought to have the Liberty and Freedom of their Coverts and Thickets, to enjoy their full Repoſe and Quiet therein, until the King comes to view them, and make choice of ſuch as he ſhall think fit to hunt and chaſe for his Game.

The Reaſon.

Nor within 40 Days after ſuch a General Hunting.

Alſo all the Laws of the Foreſt, and Charters, made concerning the *Pourallees*, do forbid every Man to diſturb or make Courſe after any Deer found in his *Pourallee*, within Forty Days next after the King hath made a General Hunting in the Foreſt adjoining thereunto, becauſe then the wild Beaſts of the Foreſt come not into the *Pourallees* of their own Accord, but as they are forced into the ſame by the Hunters, with Clamours and blowing of Horns; ſo that they fly thither for Refuge, where they are privileged to reſt in Peace for Forty Days without being hunted, chaſed, or otherwiſe moleſted; in which Time, 'tis preſumed, they will either return of themſelves into the Foreſt, or be rechaſed thither by the Rangers with their Dogs: And therefore the wild Beaſts have that Time of Liberty allowed them, as appears by the Charter granted for the *Pourallees* of the Foreſt of *Windſor* in the County of *Surrey*.

As by Charter.

Not when a Foreſter is ſerving a Warrant.

Neither is it lawful for any Man to hunt in the Pourallee at ſuch Time as a Foreſter is ſerving a Warrant within that Part of the Foreſt that borders upon ſuch Pourallee; nor at ſuch Time as any Nobleman is hunting in ſuch Part of the Foreſt, (if ſuch Pourallee-man have Notice given him thereof) that the Game of the Foreſt may not be diſturbed at ſuch Times.

He may not hunt unſeaſonable Deer, &c.

And laſtly, it is obſerv'd, That no Pourallee-man, or other Perſon, may hunt or chaſe any unſeaſonable Deer, *viz.* Deer of Antler in the Winter, or Does and other Winter Deer in the Summer; for when they are out of Seaſon, they are unwholeſom, and not fit for the Food of Man; beſides (as was mention'd before) they are commonly not able to ſtand Courſe, or ſhift for themſelves by making their Eſcape into the Foreſt again: Therefore while they are ſo out of Seaſon, the Laws of the Foreſt do utterly forbid the courſing, hunting or killing them in the Pourallees, or elſewhere.

Six Leſſons to be learnt by the Pourallee-hunter.

There are therefore, according to Mr. *Manwood*, *p.* 376. Six Leſſons to be learnt by a Pourallee-man, *viz.*

1. That he do begin his Chace in his own Pourallee.
2. That he do not foreſtall or kill the wild Beaſts with any Engine.
3. That before his Dogs do enter into the Foreſt, he do call them back again.
4. That he do not purſue his Dogs into the Foreſt, except they faſten upon the Deer firſt; and that the Deer do draw the Dogs into the Foreſt, wherein the Dogs do kill him.
5. That he do hunt with no more Company than his own Servants.
6. That he do hunt no unſeaſonable Deer.

Alſo Ten other Precepts or Prohibitions, according to Mr. *Manwood*, *p.* 377.

Neither may he hunt contrary to the Ten Precepts following, *viz.*

1. Not in the Night, for that is prohibited by the *Aſſizes* of *Woodſtock*, *Art.* 13.
2. Nor on the *Sunday*, for he is ſpecially prohibited ſo to do.
3. Nor in the Fence-Month, for the diſquieting the Deer that are great with Fawn.
4. Nor oftner than Three Days in one Week, leſt his often Hunting diſquiet the wild Beaſts in the Foreſt.
5. Nor with any more Company than his own Servants, becauſe his Intereſt thereby is but a Conditional Licence of Profit that goeth ſtrictly to him to whom the ſame is given, and not to any other.
6. Nor within Forty Days next before the King's General Hunting proclaimed, becauſe then the wild Beaſts muſt not be diſquieted, to the end the King may have a full View of them.
7. Nor within Forty Days next after the King's General Hunting in the Foreſt,

reſt, becauſe then the wild Beaſts are feared out of the Foreſt, and do not go out of themſelves.

8. Nor when the Foreſter is ſerving any Warrant near unto the Borders of the Pourallees, (having Notice thereof) leſt he hinder him therein.

9. Nor with any manner of Foreſtalling, or other Engine to take the Deer withal, neither with Gun nor Croſs-bow, but only by chaſing with his Dogs, for that is prohibited by the *Aſſizes of* Woodſtock, *Artic.* 13.

10. Nor may he hunt any unſeaſonable Deer, altho' he do find them in the Pourallee; becauſe that then they are little worth, and not able to run: And therefore the Laws of the Foreſt have forbidden that they be kill'd.

Further Obſervations relating to Purlieus.

4 Co. Inſt. 303, *&c.*

BUT here again, we muſt take notice of what my Lord *Coke* further adds, 4 *Co. Inſt.* 303, *&c.* concerning the Purlieu.

Charta de Foreſta above 30 Times confirmed.

The Statute of *Charta de Foreſta* (ſaith he) hath been above Thirty Times, and laſtly in the 4th of *Henry* V. Confirmed, and Enacted, and Commanded to be put in Execution; and we find no Authority in Law, that we remember, againſt our Opinion herein: Therefore we proceed and do hold, That in any Purlieu a Man may as lawfully hunt to all Intents and Purpoſes within the Purlieu within his own Grounds, as any other Owner may do in his Grounds that never was afforeſted at all.

That in any Purlieu a Man may freely hunt, *&c.*

Is not limited by Cuſtom, *&c.*

That ſome have endeavoured to limit the Purlieu-man to hunt by Cuſtom or Preſcription; but all the Statutes were made within Time of Memory, againſt which they cannot preſcribe.

Nor by the Foreſt-Law.

That ſome endeavour to maintain it to be by Foreſt-Law, but it is queſtion'd; whether there be any ſuch Foreſt-Law in that Point, for *quod non legitur, non creditur:* But to conclude this Point, he adds, That no Foreſt-Law can ſtand againſt Laws enacted by Authority of Parliament; and he denies that the Statute of 33 *E.* 1. *Stat.* 5. or ſome other made *tempore E.* 1. *E.* 2. or *E.* 3. do in ſome ſort reſtrain their Hunting, as others have thought.

Againſt Acts of Parliament.

All ſuch Statutes for Reſtraint, *&c.* repeal'd.

And, *fol.* 304. that if any ſuch Statutes were, they are (being contrary to the Statute of *Charta de Foreſta*) repealed by the Statute of 42 *E.* 3. *cap.* 1. And all the Statutes or Aſſizes, either that of *Woodſtock* in the Reign of *Hen.* 2. or any other in his Time, or in the Reigns of K. *Richard* I. or K. *John*, are all abrogated by the Statute of *Charta de Foreſta* made in the 9th of *H.* 3. *cap.* 1, & 3. as to the Deafforeſtations, *&c.* And that the Statute or Aſſize of *Woodſtock* doth extend to Deafforeſtations before, and not after; the Words thereof being, *Nullus faciat aliquam inſtallationem inter Foreſtam & Boſcos*, &c. *per ipſum, vel Progenitores ſuos deafforeſtatos.*

That he may keep his Dogs unexpeditated, *&c.*

And for the ſame Reaſon (ſays he) the Purlieu-man may keep his Dogs within the Purlieu unexpeditated; and ſeeing the wild Beaſts do belong to the Purlieu-man *Ratione ſoli*, ſo long as they remain in his Grounds, he may kill them; for the Property, *Ratione ſoli*, is in him.

The Law miſtaken.

So as hereby concerning Pulieus, and the Reſolution of the Judges concerning Chaſes, it appeareth, That the Makers of the Statute of 22 *Ed.* 4. miſtook the Law in both of them, *viz.* concerning Chaſes and Purlieus; but the Statute being in the Affirmative, worketh no Prejudice to any.

When he ought to call back his Dogs.

And if he chaſe them with Greyhounds, and the Beaſts of the Foreſt do fly towards the Foreſt for their Safety; if the Owner purſue them to the Bounds of the Foreſt, and then call back his Dogs, and do his Endeavour to call them again from the Purſuit, altho' the Dogs follow the Chaſe in the Foreſt, and kill the king's Deer there, this is no Offence, ſo as the Owner enter not into the Foreſt, nor meddle with the Deer ſo killed.

And not enter the Foreſt.

When he may enter and take the Deer.

But if the Dogs faſten upon the Deer before he recover the Foreſt, and the Deer drag the Dogs into the Foreſt, there the Purlieu-man may follow his Dogs, and take the Deer.

Of the Forty Days reſerv'd for the Deer's Returning.

That as to the Forty Days reſerv'd to the King, for his wild Beaſts within the Purlieus to return again, and for his Rangers within that Time to rechaſe them into the Foreſt, (which is taken to be a convenient Time for that Purpoſe) ſome Letters Patents for the Perambulations, or Pourallees of Foreſts made by King *Ed.* 3. take notice thereof.

Permiſſion to rechaſe into the Foreſt.

And that altho' theſe Purlieus be abſolutely diſafforeſted, and have no Liberty of Foreſt there; yet, for Conveniency, it hath been permitted, that the Rangers of the Foreſt ſhould, as often as the wild Beaſts of the Foreſt range into the Purlieu, with his Hound rechaſe the ſame.

Rangers uſed to preſent Treſpaſſers, but not the Purlieu-man.

And theſe Rangers have uſed to preſent unlawful Hunting and Hunters of the King's Deer within the Purlieu, as in the Night, or at unſeaſonable Deer, or killing of the King's Deer in Purlieus, by no Purlieu-man, but unlawful Hunters,

ters, or the like; such as should not take any Advantage of their own Wrong, both to the King and Purlieu-men; and that they are known to be Deer belonging to the King's Forest, because there are no other within the Purlieu.

Directions as to their Presentments.

Concerning Presentment of Matters done within the Purlieus of the Rangers, he directs and refers to the Records and Precedents of Eyres of *Pickering* and *Lancaster*, &c. and notes (in the Margent), That the Oath of the Office of a Ranger proveth, that the Purlieus are no Part of the Forest, but distinct Things.

The Abbot of *Whitby* took the King's straying Deer with Nets, *&c.*

In *fol.* 305. is cited the Case of the Abbot of *Whitby*, who with Nets took the King's Deer, straying out of the Forest of *Lancaster* into the Forest of *Whitby* adjoyning; and the Abbot was thereof acquitted upon his Pleading a Grant to him of the Forest, and suggesting, That the Deer of one Forest could not be distinguished from the other, seeing the King's Deer are not branded or signed with any Mark, that they may be known whose they are out of the Forest, *&c.* That by which Record, and many others, it doth appear, That when the King's Game of the Forest do range out of the Forest (and Purlieu, if any be) they belong not to the King, but are at their natural Liberty, *& occupanti conceduntur.*

And was acquitted.

And this (he says) is the Reason that some have said, That where the King was seised of the Forest of *M.* in Fee, and that a Custom was pleaded, Time out of Mind, That if any Beast of the Forest should range into the Free Chase of the Abbot *de D.* adjoyning to the said Forest, That the Foresters of the said Forest, *&c.* might enter into the said Chace, and with little Dogs rechase the King's Beasts of his Forest into the Forest again: But that this Custom is against Law, for that (besides the Reason yielded in the Abbot of *Whitby*'s Case) immediately when they are out of the Bounds of the Forest, the Property is out of the King; for the being within the Forest, maketh the Property in that Case: But the Book of 7 *H.* 6. is left at large, Whether the Prescription be good or no; and yet Aid was thereupon granted: But in the Abbot of *Whitby*'s Case, there is no Prescription for the King, but against him.

When the Property is out of the King, *& occupanti conceduntur.*

So that these last Observations seem to run counter to Mr. *Manwood*'s Particulars relating to a Purlieu and Pourallee-man, except what may be inferr'd from the General Statutes against keeping Greyhounds, *&c.* as afore observed.

Certain Resolutions, with Principal Notes, of the Assizes *and* Iters *of the Forests of* Pickering *and* Lancaster; *taken from Mr.* Manwood's Laws of the Forest, Chap. 25. *&c. and* 4 Co. Institut. Chap. 37. *whereby most of the former Charges relating to Forests, are further confirm'd.*

How Forest appear from Chaces, *&c.*

IT was resolved by all the Judges, 5 *Jac.* 1. *Regis*, That Forests appear by Matter of Record, as by the Eyres of Justices, Swainmotes, Officers, *&c.* but the Appellation of it by the Name of a Forest, in Grants, Offices and Conveyances, is not any Proof that it is a Forest.

How a Freeholder may cut his Timber.

That if supposed Forests are no other than Free-Chaces, and not Forests in Law, then he that hath any Freehold within them, may cut his Timber and Wood growing upon it, without any View or Licence of any: But if he cut so much, that there is not sufficient for Covert, and to maintain the Game of the King, he shall be punished at the Suit of the King.

And so if a Common Person hath a Chace in another's Soil, the Owner of the Soil cannot destroy all the Covert, but ought to leave sufficient Covert, and sufficient Browswood, as hath been accustomed.

He may there prescribe for a Common and Warren in a Free Chace.

That within such a Chace, the Owner of the Soil, by Prescription, may have Common for his Sheep, and Warren for Conies, by Grant or Prescription; but he cannot surcharge with more than hath been used, from the Time which, *&c.* nor make Burrows in other Places than hath been used, unless he hath Warren by Grant, and then he may use it according to his Grant; but he cannot erect a new Warren without Charter.

And may build a Lodge.

That he who hath such a Warren, may lawfully build upon his Inheritance, within his Warren, a convenient Lodge for Preservation of his Game.

A Park within a Forest by Prescription.

Id. 90. It is agreed, That one may have a Park within a Forest by Prescription, or by Grant; but then the same ought to be kept so inclosed, that the Beasts of the Forest cannot enter into the Park, otherwise 'tis a Forfeiture of the Liberty of the Park. And so it is if he hath a Saltery or Deer-Leap; for the

Nature of a Park is to be incloſed. And it was adjudged, 15 *Ed.* 3. That if a Grantee of a Park does ſo ſlightly incloſe the Park, ſo that the Foreſt Beaſts may get in there, that it is a Forfeiture, and the Lord of the Foreſt may enter and take the Deer. *Id.* 90.

Forfeiture thereof.

See, for theſe Things, more at large in 4 *Co. Inſt.* 298, 299.

That a Man may preſcribe to take and cut down Timber-Trees within his own Woods in a Foreſt without the View of the Foreſter, notwithſtanding the Ordinance of 34 *Ed.* 1. and the *Stat.* of 1 *E.* 3. *c.* 2. becauſe that Statute is but an Affirmance of the Common Law, and 34 *E.* 1. is no Statute; and the Statutes that are only Declarative, *antiqui Juris*, and not Introductive, *novi Juris*, a Man may preſcribe againſt them. 4 *Co. Inſt.* 297, 298.

Preſcription to fell Timber without View.

And if a Man hath a Wood in a Foreſt, and hath no ſuch Preſcription, the Law doth appoint him a Means to fell both Wood and Timber, ſo as it be no Prejudice to the Game, but ſufficient is left beſides; and this Means is by a Writ of *ad quod Dampnum*; upon Return whereof, the King doth licenſe him. 4 *Co. Inſt.* 298.

Otherwiſe where the Law appointeth a Means.

The Wood of a Subject may be ſeiſed into the King's Hands, for the Default of his Woodward, at the Juſtice-Seat; and may be detained till it be replevied, and Fine made.

Wood ſeiſed till replevied, *&c.*

Woodwards may not walk with Bow and Shafts, but with Foreſt-Bills. If he that is Owner of a Wood within a Foreſt doth appoint a Woodward, where there was never any before, it is fineable by the *Aſſizes of the Foreſt*, *Pick. fo.* 10.

Woodwards Default.

That if a Man do make Charcoals or Browſwood within the Foreſt, it is Fineable; and if he will make Title by Preſcription ſo to do, if he do it not, the firſt Day of the Juſtice-Seat he ſhall anſwer to the King for the Value of the Coals. *Aſſ. Pickering fol.* 10.

Making Charcoals.

But the Lord of a Foreſt may enter by his Officers into any Man's Wood which is growing within the Regard of the Foreſt, and cut down Browſwood for the Deer in Winter. *Ibid.* 19.

Browſwood.

If any Man do take any Hawks, or deſtroy Ayries of Hawks in the King's Woods, he is fineable for the ſame. *Itin. Lanc. fo.* 7.

Deſtroying Hawks, *&c.*

And tho' every Freeman, by *Chart. Foreſt. Art.* 13. ſhall have, within his own Woods, Ayries of Hawks, Sparrow-Hawks, Faulcons, Eagles and Herons; yet the Uſage thereof ſhall be inquired by the Miniſters of the Foreſt, becauſe that *non Uſer* is Cauſe of Seizure. *Itin. Pick. fo.* 148, 166. &c.

Freemens Ayries to be enquired of.

Adjudged, That a Man may be quit of Pawnage, as appurtenant unto his Free-hold; ſo by Preſcription appurtenant unto Lands.

Acquittal of Pawnage.

Alſo the Office of a Woodward, and the Bark of Trees fell'd, may be claimed as pertaining to a Manor.

An Office claimed.

A Claim made for Common of Paſture, is good; but neither Sheep nor Swine are allowed to have Common within the Foreſt, nor may any Man common with Goats, without Special Warrant.

Common claimed.

How one ought to make Claim that hath a Manor, whereunto doth belong a certain Wood; the which Wood is within the Compaſs of the Foreſt, or inviron'd with the Foreſt, and yet without the Regard of the Foreſt. *Manw. L. For.* 546. 4 *Co. Inſt.* 291.

Claim of a Wood within the Foreſt, but, *&c.*

The ſame Perſon made a Claim to hunt the Hare, the Fox, the wild Cat, the Martron in *B. Ibid.*

Claim to hunt.

He alſo claimed to have Liberty to pluck up the Heath by the Roots, and to dig Turfs, and the ſame to ſell at his Pleaſure, and to carry them out of the Foreſt.

Claim for Heath, *&c.*

Alſo to agiſt, and take the Agiſtment to his own Uſe, *&c.* All which Claims being found to be true by the Miniſters of the Foreſt, were allowed by Judgment, *viz. Et habeat & gaudeat ſalvo Jure.*

Claim to agiſt.

There is no Tithing of Veniſon by the Law, but in ſome Places by Uſage; alſo it may be claimed by Vertue of a Grant, as alſo the Tenth Peny of the Pawnage of the Foreſt, when collected.

Tithe of Veniſon claimed.

The Prior of *York* claimed by Charter to have Tithe of all Veniſon, *tam in Carne quam in Corio*, whereas he ought to have it in *Corio* only; for which he was fined, but enjoyed it in *Carne*. 4 *Co. Inſt.* 297.

And allow'd.

By *Aſſiſ. Lanc. fol.* 6. none may incloſe any Ground in the Foreſt *ad nocumentum Ferarum.*

Where none may incloſe.

That it is Purpreſture for a Man to build a Houſe there, although it be upon his own Free Land; and both he and his Aſſignee may be amerc'd.

Building Houſes.

Hedges of Four Foot high, are contrary to the Aſſizes.

Hedges.

No Man may enter the Foreſt by Night, tho' it be to take out his own Horſe depaſturing there.

Entring by Night.

Neither may he enter with Bows and Arrows, with Intent to offend there; *quia Voluntas reputabitur pro Facto.*

With Bows, *&c.*

He that doth cut down *Ligna virida*, is a Treſpaſſer in Vert.

Ligna virida.

He that hath Eſtovers for Hedging, which might laſt Two Years, and at the Year's End conſumes it, he ſhall not be allowed new; and if he take more at one Time then he ought, they ſhall be ſeized, and he ſhall be fined.

Waſting of Eſtovers, *&c.*

He that cuts down Buſhes and Thorns, and carries them away in a Cart, the Cart and Horſes ſhall be ſeized, and he ſhall be fined. If he cuts and carries away Green-hue upon a Horſe, he ſhall forfeit

Cutting of Buſhes, *&c.*

Forfeiture. forfeit the Price of the Vert, and his Horſe.

Nuts gathering. It appeareth, that none may gather Nuts within the Foreſt, without Warrant.

Townſhip fined. Where the People of a whole Townſhip make Waſte in Green-hue, the whole Townſhip ſhall be fined.

Firing dry Oaks. He that doth ſet dry Oaks on fire within the Foreſt, is puniſhable.

Swine *tempore vetito.* Swine found in the Foreſt *tempore vetito*, are forfeited to the King; ſo are Sheep and Goats *in Menſe vetito, & Warda facta.*

Not repairing Bridges, *&c.* He that ought to repair Bridges or High-ways, and doth not, he ſhall be fined, and amend, or elſe his Land ſhall be ſeized.

White Tawyer. If any White Tawyer dwell within the Foreſt, he ſhall be removed, and make Fine; for they are common Dreſſers of Skins of ſtolen Deer.

Default in Hue and Cry. If Hue and Cry be made by the Miniſters of the Foreſt, and not purſued and followed with Effect, the Townſhip that are faulty ſhall be well fined. 4 *Co. Inſt.* 292. they ſhall be amerced at the Juſtice-Seat.

When Hue and Cry is to be made, and who may make it. By 4 *Co. Inſt.* 292. Hue and Cry, by the Foreſt-Law, is not to be made for Treſpaſs in Vert, but in Veniſon only; and that it cannot be purſued, but only within the Bounds of the Foreſt; and the Offence muſt be committed within the Foreſt, and not within the Purlieu: Alſo that this Hue and Cry may be made by any of the King's Miniſters of the Foreſt, for any of them may arreſt the Malefactor; and none can make Hue and Cry, but he that may arreſt in that Caſe, and cannot; and that ſo are the general Words, *Si quis viderit*, &c. to be underſtood.

Deer, Trees, *&c.* to be preſented, *&c.* The Number of Deer and Trees given away by Warrant, or otherwiſe; Deer that have died, or been kill'd, and Wind-falls, Profit of Pawnage, Ruſhes, Fern, *&c.* muſt be preſented at the Juſtice-Seat.

Fee-Foreſter. That a Man may be a Foreſter in Fee, *jure Uxoris, &c. Vide* 4 *Co. Inſt.* 297.

Cuſtos Foreſtæ. It appears, that there was a Perſon called *Cuſtos totius Foreſtæ.*

Superviſor, *&c.* Alſo another Officer call'd *Superviſor Foreſtariorum.*

Fee Forfeited, *&c.* The Earl of *Norfolk* did forfeit his Foreſterſhip in Fee of the Foreſt of *Pickering*: And 4 *Co. Inſt.* 315. Their Bailiwicks in Fee cannot be granted over, without the King's Licence. *Ibid.* And if a Foreſter, by Patent for Life, be made Juſtice in Eyre of the ſame Foreſt, *pro hac vice*, the Foreſterſhip is void.

All Treſpaſſers Principals. In Treſpaſs in the Foreſt, there are no Acceſſaries, but all are Principals.

It is noted, That in the higheſt and loweſt Offences, *viz.* Treaſon and Treſpaſs, there are no Acceſſaries; but in Felony, which is between both, there be Acceſſaries both before and after. 4 *Co. Inſt.* 317. *in Margin.*

The Lord *Dacres*'s Caſe. The Lord *Dacres* and *Manſell*, and others in his Company, came unlawfully to hunt in a Foreſt; and being reſiſted, one of the Company, when the Lord *Dacres* was a great way off and not preſent, kill'd a Man, and it was adjudged Murther in him, and all the reſt; and the Lord *Dacres* was hang'd. *Vide Kelyng's Rep.* 87. *Moor's Rep.* 86. *Stow's Ann.* 582.

A Steward indicted for Offences. *Nicholas de Gower* was indicted, for that he killed the King's Game in the King's Foreſt, when he was the King's Steward of the ſame; and alſo had taken Ranſom for Indictments, which Indictments were removed *coram Rege*, and the Steward was put to anſwer thereto.

Receivers. He that receives Veniſon of a Treſpaſſer, ſhall be puniſhed as well as the Principal. *Vide* 4 *Co. Inſt.* 317.

Several Offenders grievouſly fin'd, *&c.* Several Offenders in the Foreſt, who with Bows, Arrows and Dogs, had kill'd 43 Stags and Hinds within the Foreſt; and, in deſpite, had cut off their Heads, and ſet them upon Stakes; were committed to Priſon, and grievouſly fin'd, and afterwards bound to their good Behaviour.

Good Behaviour. He that is indicted for Foreſt-Cauſes, if his Pardon be allowed, he muſt find Sureties for his good Behaviour.

Horſe carrying ſtolen Veniſon. He that ſteals Veniſon in the Foreſt, and carries it away upon Horſe-back, the Horſe ſhall be forfeited, unleſs it be the Horſe of a Stranger, who is ignorant of the Fact.

Lending a Bow. Lending of a Bow and Arrow to kill Deer, is fineable.

Fee for Secrecy. He that takes a Fee or Reward of an Offender, to keep Counſel, is to be impriſon'd, fined, and ranſomed.

Striking Hares, *&c.* Two were indicted for ſtriking a Hare in her Form, and for taking another within the Foreſt; the one was impriſoned, fined and ranſomed, and the other was outlawed.

Greyhounds to be ſeized, *&c.* If Greyhounds run about, to the Hurt of the Deer, *&c.* the Foreſter ought to retain them, and preſent them in the Preſence of the Verderors, and to ſend them to the King, or Chief Juſtice of the Foreſt.

Killing within a Boundary. An Abbot was fined for killing of an Hart within a River, being a Bound of the Foreſt. Alſo no Man may fiſh in a River that is a Boundary, without Warrant.

Baker and Brewer. It is againſt the Aſſize of the Foreſt, that any Baker or Brewer ſhould bake or brew in the Foreſt.

A Courſe given. If a Foreſter do give a Nobleman a Courſe, and his Dogs do kill, it muſt be preſented at the Juſtice-Seat.

Aſſarts continued. If he that is preſented for Aſſarts, makes Fine, and after compounds with the Juſtice, he may continue it at a yearly Rent.

Agiſtors Account. Agiſtors muſt bring a true Account before the Juſtice-Seat.

He

Deer dying of the Murrain, *&c.*

He that takes off the Skin of a wild Beaſt dying of the Murrain, if it be preſented, he ſhall be puniſh'd; if he comes in, he ſhall pay the Price of the Skin, and be amerced. It ſeems by the Aſſizes of *Lanc.* and *Pick.* ſuch Beaſts ought to be hung upon high Trees, as Oaks, *&c.*

Strangers Beaſts.

It is fineable to permit the Beaſts of a Stranger to paſture in the Foreſt.

Pulling down Houſes.

He that, without Warrant, pulleth down his ancient Houſe in the Foreſt, and ſetteth it up without the Foreſt, is finable: So to make any new Buildings, without Special Licence or Warrant.

Fin'd for Extortion, *&c.*

If the Foreſters diſturb the Cattle of Commoners, or extort any Money from them, 'tis fineable. And a Riding Foreſter was indicted for Negligence and Oppreſſion in taking Oats, *&c.* And if a Foreſter take Money for Bark, his Land ſhall be ſeized.

A Parſon's Dogs not expeditated.

A Parſon indicted, for that his Dogs were not expeditated or lawed, pleaded *Magna Charta, Quod Eccleſia Anglicana ſit libera, & habeat omnes Libertates ſuas integras & illæſas*; and was thereby diſcharged.

Surcharge of Common.

They are to be indicted that overcharge the Common within the Foreſt.

Barcary.

No Subject may have a Barcary within the Foreſt, without Warrant.

Interrupting a Verderor, *&c.*

If any Man do interrupt the Verderor or Regardor of the Foreſt, 'tis fineable.

Taking Pheaſants, *&c.*

'Tis fineable to dig Turfs, likewiſe to take Pheaſants, Partridges, or other Birds within the Foreſt.

Treſpaſſer dying, the Heir charg'd.

If a Man cut down Vert, and dieth before Preſentment thereof, yet the King ſhall be anſwered for the Treſpaſs by his Heirs or Land-Tenants.

Agiſting his own Lands, *&c.*

No Man may agiſt within his own Lands, within the Regard of the Foreſt, except he have Special Licence ſo to do; neither may any Man aſſert or diſcolour, but by the King's Warrant.

Eſtovers miſpent.

If Eſtovers granted to a certain Meſſuage be ſpent in another Houſe, 'tis good Cauſe of Seizure; for this is an Abuſer, which is a good Cauſe of Forfeiture. *Itin. Lanc. fo.* 67. *b.* and the ſame Law is of a Common of Paſture. *Ibid.*

Forfeiture.

De Miſericordia Foreſtæ, is to be quit of all Fines and Amercements.

De Vaſto, to be quit of Waſtes.

Quietum eſſe

De Buroſtall, de Fledwite, de Careyo, de Panagio, and ſuch-like. *Vid.* 4 *Co. Inſt.* 306.

De omnibus Geldis. Ibid.

De Potura, or *Putura*, to be quit of Scot-Ales, which is to be free from a Tribute or Contribution of Drinking for the Miniſters in their Perambulation of the Foreſt, which afterwards they claim'd for all Victuals for themſelves, their Servants, Horſes, and Dogs. *Idem* 307.

Quietum eſſe

To be quit of *Eſcapes* within a Foreſt, doth ſignifie, That whereas if any Man's Beaſts be found within the Lands forbidden, or in the Fence-Time, in the Foreſt; the Law is, That the Owner ſhall be amerced for every Foot 1 *d.* alſo for the ſecond Time in like-manner; and for the third Time, the Beaſts are to to be forfeited unto the Lord of the Foreſt. Of all which, he that is *Quietus de Eſcapio*, is clearly diſcharged. *Pick.* 15, 17, 19. To be quit of Eſcapes.

Note, The Fence-Month contains One and thirty Days.

To be quit of *Footgeld*, is to keep Dogs within the Foreſt unlaw'd, without any Amercements, Fine or Forfeiture. *Id.* 17. Quit of Footgeld.

To be quit of *Chiminage*, is a Diſcharge of Money paid for Paſſage thro' the Foreſt, with Carriage of any Thing upon Horſe-back. *Ibid.* Quit of Chiminage.

Horngeld, is a Tax within the Foreſt for all manner of Horned-Beaſts; and to be free thereof, is a Privilege granted by the King to whom he thinks good. *Cowel's Interp. Verb. eod.* Horngeld.

Woodgeld, is the Gathering or Cutting of Wood in the Foreſt, or the Money paid for it, to the Uſe of the Foreſters; or an Immunity for this by the King's Grant. *Idem Verb. eod.* For theſe and ſuch-like, *See Manwood's L. For. cap.* 25. and 4 *Co. Inſt.* 306, 307. &c. Woodgeld.

Frank Chaſe, is ſaid to be a Liberty of Free Chaſe in a Circuit annexed to a Foreſt; whereby all Men that have Ground without the Circuit, are forbidden to cut down Wood, or diſcover, *&c.* within the View of the Foreſter, tho' it be his own Demeſn. *Idem Verb. eod. See before, at the Beginning of this Treatiſe of the Foreſt.* Frank Chaſe.

That the Owner of a Park may divide any competent Parcel of the Park for the Feed of the Game in Winter; and he that hath the Herbage, cannot put any Beaſts therein: It ſeems he can have Pawnage but only of the Surpluſage. 4 *Co. Inſt.* 299. And if there be not ſufficient for Winter and Summer for the Game, the Owner may drive out the Beaſts of him that hath Herbage. Diviſion in a Park.

If

Liberty to make a Park.

If the King do grant Liberty to make a Park, and it is not after uſed, the Non-Uſer ſhall be enquired of: For after a Liberty is granted, if the Grantee do not uſe the ſame continually, the Non-Uſer ſhall be enquired of; the which Non-Uſer is a good Cauſe of Seizure. *Pick. fo.* 15, 17, 18, *&c.* and *fo.* 166.

Non-Uſer cauſes Seizure.

Certainty of Ground; the proper Soil.

It is noted, That a Licence to empark, or incloſe a Park, muſt contain a certain Quantity of Ground, and it muſt be the proper Soil of the Grantee; or elſe, upon Inquiſition had in due Form of Law, the Park is to be ſeized, *&c.*

How a Subject may Licenſe a Park.

A Subject, being Owner and Lord of a Foreſt, gave a Licence unto another to make and incloſe a Park within the Meets of the ſame Foreſt; to have and to hold the ſame Park incloſed, with all ſuch Veniſons as the Grantee ſhall put therein, to him and his Heirs for ever: And this was adjudged and admitted for a good Licence, in a Claim made in Eyre. *Aſſiſ. de Pick. fo.* 64.

To hold for ever.

If but ſlenderly fenced.

And it is noted, That if ſuch a Park be ſo ſlenderly fenced and incloſed, that the wild Beaſts of the Foreſt do enter into the Park, then may the Lord of the Foreſt enter into the ſaid Park, and there hunt at his Pleaſure. *Ibid.*

The Lord may enter, *&c.*

The Prerogative of the Lord of a Foreſt.

And it is alſo noted, That the Lord of a Foreſt hath this Prerogative over all Men that dwell in his Foreſt, That at ſuch Time as he is diſpoſed to chaſe within his Foreſt, every Man muſt be ready to hold a Grey-Hound, for the taking of wild Beaſts in ſuch Places as they ſhall be appointed, or elſe the Defaulters to be amerced; but he that hath the Benefit or Diſcharge of this Word *Triſtis*, is not bound by the Aſſizes of the Foreſt to give any ſuch Attendance. *Pick. fo.* 17.

Diſcharge of *Triſtis.*

See for theſe above-mention'd Reſolutions and Caſes, in *Manwood's Law For. cap.* 25.

Charta de Foreſta, &c. are *Declarativa antiqui Juris.*

That *Charta de Foreſta*, and moſt of the Statutes concerning Foreſts, are *Declarativa antiqui Juris*; and therefore as againſt the Common-Law, ſo againſt them a Man may preſcribe: But if they were *Introductiva novi Juris*, then no Preſcription can be made againſt them, unleſs he hath another Statute to preſerve the Liberties. 4 *Co. Inſt.* 298.

Ancient and obſcure Words expounded, *&c.*

How the Entry is by the Law of the Foreſt, when any Claim is made by any ancient Charter of any Franchiſe, *&c.* or Diſcharge within the Foreſt, by ancient and obſcure Terms and Words. *Id.* 305.

That Uſe and continual Poſſeſſions are the beſt Expoſitors of ancient and obſcure Words. *Id.* 306.

Where the Grant of a Foreſt ſhall paſs only as a Free Chaſe.

The King being ſeized of a Foreſt, did grant the Foreſt to another in Fee, the Grantee ſhall have no Foreſt, becauſe he hath no Power to make Juſtices and Officers of Foreſts to hold Courts, *&c.* But yet, though it cannot take Effect, *ex vi termini*, as a Foreſt; yet, together with the Game, the ſame ſhall paſs as a Free Chaſe for the Savages and Conies, for every Foreſt is a Free Chaſe, *& quiddam amplius.* Id. 314.

Chacea eſt ad Communem Legem.

Chacea eſt ad Communem Legem, and is not to be guided by the Foreſt Laws, and ſo are Parks. *Ibid.*

Where by the Grant, the Subject ſhall have a Foreſt.

But if the King do grant a Foreſt to a Subject, and granteth further, That upon Requeſt madein the *Chancery*, he and his Heirs ſhall have Juſtice of the Foreſt: Then the Subject hath a Foreſt in Law, as had the Duke of *Lancaſter*, and the Abbot of *Whitby*, *&c.* Which being not underſtood, hath been the Cauſe that Readers and others have err'd. *Ibid.*

A Free Chaſe granted, made Foreſt by Parliament.

Where the Grant of a Foreſt to the Duke of *Gloceſter* paſſed it only as a Free Chaſe; it was enacted by Parliament, That the ſaid Duke ſhould hold the ſaid Foreſt as a Foreſt, and to conſtitute ſuch Juſtices and Officers, *&c.* as belong to a Foreſt. *Id.* 315.

Tranſgreſſio.

Mich. 9 *Ed.* 1. *coram Rege Rot.* 6. *Huntingdon. Trangreſſio in Foreſta Regis pro venatione Regis non eſt hic terminanda.* Ibid.

Treſpaſs dies with the Perſon.

If a Man committed a Treſpaſs in a Foreſt and die by the Foreſt Law, the Treſpaſs is diſpuniſhable, agreeable to the Rule of the Common Law. *Ibid.* & 8 *E.* 3. *Itin. Pick.*

Felony within the Foreſt.

That if any Felony be committed within the Foreſt, it ſhall be inquired of before the Judges of the Common Law, and doth not belong to the Conuſance of the Foreſt. *Ibid. Co. Inſt.*

That a Man may have a Free Chaſe, as well as a Warren and Park, in his own Grounds.

That it is obſerv'd, That a Man may have a Free Chaſe, as belonging to his Manor in his own Woods, as well as a Warren and Park in his own Grounds; for the Chaſe, Warren and Park, are collateral Inheritances, and not iſſuing out of the Soil, as the Common doth: And therefore, if a Man hath a Chaſe in other Men's Grounds, and after purchaſe the Grounds, the Chaſe remaineth. *Id.* 318. *Regiſt. Judic.* 35, 36 *Dier.* 16 *El.* 326, 327.

That the Foreſt-Laws are certain.

That the Laws of the Foreſts of *England* are certain, and eſtabliſh'd by Authority of Parliament, and not as in other Countries, changeable and floting in Uncertainty, *ad Principis placitum. Id. Co. Inſt.* 319.

The King's Anſwer to a Petition againſt evil Cuſtoms.

That the Commons of *Herefordſhire* pray'd Remedy againſt the evil Cuſtoms of the Foreſt of *Ewayſtone*; namely, for taking their Cattle coming thereunto, as Forfeit: Whereunto the Royal Anſwer of the King in Parliament was in theſe Words, 'The good old Laws and Cuſtoms of 'the Foreſt to be obſerv'd, and the con-'trary forbidden by a Writ under the

t Privy-Seal. *Regalis ſané & digna Plantagineſtorum genere Sententia. Id.* 318. Wherewith, ſays the Lord *Coke*, we will conclude, That new Opinions of new Authors, or ſingle Opinions of Readers, grounded upon the Authorities of our Books, or Judicial Precedents, are not to be allowed; but the Laws both good and old, and ſpecially the Statute of *Charta de Foreſta*, and other Statutes, and the Reſolution of the Judges thereupon, are to be duly obſerv'd. And directs to ſee the old and juſt Articles of the Charge in *Fleta*, *Lib.* 2. *cap.* 35. and to reject all new Inventions without Warrant in Law.

Books and Authorities not allow'd.

The old and juſt Articles of the Charge of the Foreſt.

Of Bows and Guns, and ſhooting at Game.

BY 33 *Hen.* 8. *cap.* 6. None ſhall ſhoot with, or keep in his Houſe, any Croſs-Bow, Hand-Gun, Hagbut, (Hakebut or Haquebut) or Demihake, unleſs he hath Lands to the Value of 100 *l. per Ann.* on Pain to forfeit 10 *l.* for every ſuch Offence.

Of keeping, *&c.* Croſs-Bows, Hand-Guns, *&c.*

Penalty.

Note, By 5 *Co. Rep.* 71, 72. the Word Hand-Gun, includes a Dag, though invented ſince the Statute; and the Word Croſs-Bow, includes a Stone-Bow; alſo a Hagbut is ſaid to be Hand-Gun, Three Quarters of a Yard long.

Dag.

Stone-Bow.

That none ſhall ſhoot with, or have any Hand-Gun, under the Length of a Yard, nor Hagbut or Demihake under the Length of Three Quarters of a Yard, on Pain to forfeit 10 *l.* Alſo it ſhall be lawful for any Man, having Lands of 100 *l. per Annum*, to ſeize any ſuch Gun, or any Croſs-Bow, uſed or kept contrary to this Statute; but then he ought to break them within 20 Days after, on Pain of 40 *s.*

The Length of ſuch Hand-Gun, *&c.*

Penalty.

By the ſame Statute, None ſhall travel with a Croſs-Bow bent, or Gun charged (except in Time of War); or ſhoot within a Quarter of a Mile of a City, Borough or Market Town, except for the Defence of himſelf or his Houſe, or at a Dead Mark, on Pain of 10 *l.* Or command his Servant to ſhoot in any Gun or Croſs-Bow, except at a Dead Mark, or in Time of War, on the like Penalty.

Travelling with Croſs-Bows bent, or Gun charged, *&c.*

Penalty.

The Penalties aboveſaid are to be divided between the King and the Party that is a Proſecutor, by Bill, Plaint, Action or Information.

How divided.

But that the Followers of Lords Spiritual or Temporal, Knights, Eſquires, Gentlemen, and the Inhabitants of Cities, Boroughs, and Market Towns, may keep in their Houſes, Guns not under the Length aforeſaid, and uſe and ſhoot therewith, but at a Dead Mark only. So may the Owner of a Ship, for the Defence thereof; and alſo he that dwells Two Furlongs from a Town, or within Five Miles from the Sea-Coaſt; alſo this Laſt may ſhoot at any wild Beaſt or Fowl, ſave only Deer, Heron, Shovelard, Pheaſant, Partridge, wild Swan or wild Elke.

Perſons authorized to keep Guns.

Owner of a Ship.

A Dweller near the Sea-Coaſt.

Alſo, it may be lawful for any Perſon to convey the Party offending before the next Juſtice of the Peace; who, upon Examination and Proof, hath Power to commit him to Priſon till he hath paid the Penalty, to be divided between the King and the Party who ſo takes the Offender.

Commitment by Juſtice of Peace.

Every Placart granted by the King, which expreſſeth not at what Beaſts or Fowl the Grantee ſhall ſhoot, and where the Grantee entereth not into Recognizance of 30 *l.* in the *Chancery*, to ſhoot at no other, ſhall be adjudged void.

Placarts granted by the King.

Juſtices of Peace in Seſſions, and Stewards in Leets, have Power to hear and determine the ſaid Offences.

Offences determin'd.

And when the Conviction is in Seſſions, the whole Forfeiture is to be levied to the King's Uſe; where in a Leet, the one Half is to the King, and the other Half ought to be divided between the Lord and the Proſecutor.

Forfeitures divided.

And here, if a Jury ſhall willingly conceal any Thing, the Juſtices or Steward have Power to impannel another Jury; by whom, if the Firſt be found guilty of Concealment, they ſhall forfeit 20 *l.* a-piece, *viz.* to the King, if it be in Seſſions; but if in a Leet, then one Moiety to the Lord, and the other to the Proſecutor.

Jury making Concealment.

Forfeiture.

Alſo, the Forfeitures accrewing by this Act, are to be ſued for, *viz.* by the King within one Year, and by a Common Perſon within Six Months, otherwiſe they will be loſt.

Within what Time to be ſued.

Alſo by this Act, a Servant, upon Command, may uſe his Maſter's Croſs-Bow or Gun (not prohibited as aforeſaid), ſo he ſhoot at no Fowl, Deer, or other Game; and may alſo carry the ſame to any Place to be mended, if he have a Licence in Writing for that Purpoſe.

Servant may ſhoot, *&c.* by his Maſter's Command.

Note, The Statute of 2 and 3 *Ed.* 6. *cap.* 14. enacting, That none under the Degree of a Baron ſhould ſhoot with any Hand-Gun, within any City or Town, *&c.* was repeal'd by 6 and 7 *Will.* 3. *cap.* 13.

Other

Other Particulars relating to Hunting, Hawking, Fowling and Fiſhing, according to Statute-Law, &c.

Hunting in Foreſts, *&c.* in the Night, or diſguiſed in the Day.

BY *Stat.* 1 *Hen.* 7. *cap.* 7. If any Perſon ſhall hunt within Foreſts, Parks or Warrens, in the Night-time, or diſguis'd, one of the King's Council, or a Juſtice of the Peace, to whom Information thereof ſhall be made, ſhall by his Warrant cauſe the Offender to be brought before himſelf, or ſome other Counſellor or Juſtice of the Peace, to be examined; where, if he conceals the Fact, ſuch Hunting ſhall be alſo deemed Felony; but being confeſſed, the Offence is only fineable at the next General Seſſions: And here a Reſcous of the Execution of any ſuch Warrant ſhall be alſo deemed Felony.

Felony.
Fine.
Reſcous.

That this is a General Statute.

In 3. *Co. Inſt.* 76. It is obſerv'd, that this Act is General, and extends to all Perſons of what Eſtate or Degree ſoever, as well to Women as to Men; becauſe of the Words [*If any Perſon,*] and *Generalia verba ſunt generaliter intelligenda.*

Diſguis'd by Viſors, or painted Faces.

That to hunt diſguis'd in the Day, doth equal the Caſe of the Night, in Reſpect the Offenders cannot be known or diſcern'd, in Regard of ſuch Diſguiſing, which extendeth to Viſors and other Diſguiſing, as well as painted Faces. *Ibid.*

To what this Act doth not extend.

But it is obſerv'd, that this Act doth not extend to any Chaſe of the King, or any other Perſon; neither doth it extend to any Foreſts, Parks, or Warrens, in Uſe and Reputation only, if they be not ſuch in Law, *ibid.* And that in this ſort of Felony, the Delinquent may have his Clergy. *Id.* 78. And he there further obſerves, That though ſuch Chaſing is made Felony, yet it may be made Treſpaſs at the Pleaſure of the Party, which is the cleareſt way.

Clergy allowed.

Felony made Treſpaſs.

Deſtroying Gentlemen's Game.

By 13 *R.* 2. 13. No Layman who hath not Lands of 40 *s. per Annum*, nor Clerk who hath not 10 *l.* Revenue *per Annum*, ſhall have or keep any Grey-Hound, Hound, Dog, Ferret, Net or Engin, to deſtroy Deer, Hares, Conies, or any other Gentleman's Game, on Pain of one whole Year's Impriſonment; which Juſtices of Peace ſhall have Power to inflict.

Keeping Deerhays, *&c.*

By the 19 *Hen.* 7. *cap.* 11. None ſhall keep any Deerhays or Buckſtalls, ſave in his own Foreſt or Park, on Pain to forfeit for every Month there ſo kept 40 *s.*

Stalking with Buſh or Beaſt.

Neither ſhall any ſtalk with any Buſh or Beaſt to any Deer, except in his own Foreſt or Park, on Pain of 10 *l.* by 5 *Eliz. cap.* 21.

Tracing Hares in the Snow, *&c.*

By 14 and 15 *Hen.* 8. *cap.* 10. None ſhall trace, deſtroy, or kill any Hare in the Snow; and Juſtices of Peace in Seſſions, and Stewards in Leets, have Power to inquire of ſuch Offenders, and ſhall aſſeſs upon every ſuch Offender 6 *s.* 8 *d.* which Penalty aſſeſs'd in Seſſions ſhall go to the King, but in a Leet to the Lord thereof.

Alſo, for tracing Hares in the Snow, *Vide poſtea*, 1 *Jac.* 1. *cap.* 27.

Puniſhment of Treſpaſſes into Chaſes, Parks, *&c.*

By 5 *Eliz. cap.* 21. Such as unlawfully break and enter into any Chaſe, Park, Woods or other Grounds, and there chaſe and kill the Deer, are to ſuffer Three Months Impriſonment, and to be bound to their good Behaviour for Seven Years after. The Party grieved may recover treble Damages; and upon Satisfaction made, hath Liberty in the Seſſions, or elſewhere, to releaſe the Suretyſhip of good Behaviour.

Chacing Deer or Conies in a Park or incloſed Ground.

By 3 *Jac.* 1. *cap.* 13. None ſhall kill or chaſe any Deer or Conies in any Park or incloſed Ground without the Owners Licence; on Pain of Three Months Impriſonment, to pay treble Damages to the Party grieved, to be aſſeſs'd by the Juſtice before whom he ſhall be convict, after the ſaid Three Months is expired, and to be bound with Two good Sureties to the good Behaviour for Seven Years after, or remain ſtill in Priſon, till he find ſuch Sureties: But here the Party grieved being ſatisfied, hath Liberty to releaſe the Behaviour.

Releaſe.

Offences determin'd.

Juſtices of *Oyer* and *Terminer*, Aſſize, and Peace in Seſſions, have Power to hear and determine theſe Offences; and Juſtices of Peace in Seſſions, upon Confeſſion and Satisfaction to the Party grieved, have Power to releaſe the Behaviour. *Id. Stat.*

Uſing Guns or Bows to kill Deer, *&c.*

If any Perſon, not having 40 *l. per Ann.* in Lands, or 200 *l.* in Goods, or ſome incloſed Ground uſed for Deer or Conies worth 40 *s. per Annum* at leaſt, ſhall uſe any Gun, Bow or Croſs-Bow, to kill any Deer or Conies, or ſhall keep any Buckſtall, Ferret, Dog, Net, or other Engine: It ſhall be lawful for any Perſon, having Lands worth 100 *l. per Annum*, to take ſuch Gun, *&c.* from any ſuch Perſon, and to convert the ſame to his own Uſe. *Id. Stat.*

Park made without Licence.

This Act ſhall not extend to any Park or incloſed Ground, hereafter to be made or uſed for Deer or Conies, without the King's Licence.

Election of 10 *l.* or treble Damages.

And by *Stat.* 7 *Jac.* 1. 13. It ſhall be in the Election of the Party grieved, whether he will take for Satisfaction 10 *l.* in

10 *l.* in Money, or treble Damages, as by the Statute of 3 *Jac.* 13. is limited.

Hunting in Foreſt, Chaſe, &c. without Conſent of the Owners, &c.

None ſhall unlawfully courſe, kill, hunt, or carry away any Deer in any Foreſt, Chaſe, Purlieu, Wood, Park, or other Ground where Deer have been uſually kept, within *England* and *Wales*, without the Conſent of the Owners, or Party chiefly truſted with the Cuſtody thereof, or be aiding or aſſiſting therein, upon Pain (being convicted by Confeſſion, or one Witneſs before any Juſtice of the Peace, within Six Months after the Offence) of 20 *l.* to be levied by Diſtreſs by Warrant of the ſaid Juſtice, one Moiety to the Informer, the other to the Owner of the Deer; and for want of Diſtreſs, to be committed for Six Months to the Houſe of Correction, or Common Gaol for one Year, and not diſcharged till ſufficient Sureties be given for their good Behaviour for one Year after; provided, that upon Puniſhment by this Statute, the Penalty of no other Law be incurr'd.

Penalty.

Not twice puniſhed.

Who may depute Game-Keepers to ſeize Dogs, Bows, &c.

By 22 and 23 *Car.* 2. *cap.* 25. Lords of Manors or other Royalties, not under the Degree of an Eſquire, may, by writing under Hand and Seal, depute or authorize one or more Game-Keepers, who may ſeize all Guns, Bows, Grey-Hounds, Setting-Dogs, Lurchers or other Dogs, to kill Hares or Conies, Ferrets, Tramels, Low-Bells, Hays, or other Nets, Hare-Pipes, Snares, or other Engines for taking Conies, Hares, Pheaſants, Partridges, or other Game uſed within ſuch Manors, by Perſons prohibited by this Act to uſe the ſame, *viz.* by Perſons not having Lands, or ſome other Eſtate of Inheritance in their own or Wife's Right, of 100 *l. per Ann.* or for Life or Leaſe of 99 Years, of 150 *l. per Annum*, (other than the Son and Heir of an Eſquire, or other Perſon of higher Degree, or Owners or Keepers of Foreſts, Chaſes, Parks or Warrens.)

To ſearch Houſes of ſuſpected Perſons.

And ſuch Game-Keepers and others, by Warrant from a Juſtice of Peace, may ſearch the Houſes of Perſons ſuſpected to keep ſuch Guns, Bows, Grey-Hounds, &c. and ſeize them for the Uſe of the Lord of the Manor, or otherwiſe deſtroy the ſame.

Chaſing in Coney-Grounds.

If any one enter into a Coney-Ground or Warren, tho' not incloſed, and chaſe and kill any Conies without the Owners Conſent, he ſhall forfeit treble Damages, and be impriſon'd Three Months, and 'till he find Sureties for his good Behaviour. *Idem. Stat.*

Taking Conies in the Night upon the Borders of Warrens, &c.

Thoſe Perſons that kill or take Conies in the Night-time upon the Borders of Warrens, or on other Grounds uſed for keeping Conies, except Owners, &c. ſhall make ſuch Recompence as ſhall be appointed by the Juſtice of Peace, before whom the Party ſhall be convicted, and pay ſuch Sum not exceeding 10 *s.* as the Juſtice ſhall think fit, for the Uſe of the Poor of the Pariſh; or in Default of Payment, to be committed to the Houſe of Correction, not exceeding a Month: And ſuch as uſe Snares, Hare-Pipes or other Engines, are liable to the ſame Penalties. *Id. Stat.*

Penalty.

Hunting, &c. in Foreſts, Chaſe, or Purlieu, without the Owner's Conſent.

By 3 and 4 *Wil.* and *Ma. cap.* 10. If any Perſon ſhall hunt, take in Toils, kill or take away any Deer, in any Foreſt, Chaſe, Purlieu, Park, or other Ground incloſed, without Conſent of the Owner or Keeper, or ſhall be aiding or aſſiſting therein, and be thereof convicted by Confeſſion, one Witneſs or more, before a Juſtice of Peace within a Year after the Offence, ſhall forfeit 20 *l.* though no Deer be kill'd or wounded; and for each wounded, killed or taken, 30 *l.* to be levied by Diſtreſs and Sale of his Goods by the Juſtices Warrant, and for want of Diſtreſs, Impriſonment for one Year without Bail, and to be ſet upon the Pillory for an Hour in the next Market-Town. The Forfeiture is to be divided into Three Parts, one Third to the Informer, one to the Poor of the Place where the Offence is committed, the other to the Owner.

Penalty.

Houſes of ſuſpected Perſons to be ſearch'd for Veniſon, &c.

Conſtables, Headboroughs, &c. by a Juſtice of Peace's Warrant, may enter and ſearch the Houſes of ſuſpected Perſons; and if any Veniſon, Deer-Skins, or Toils be found, may carry the Perſon before the Juſtice; and if he do not give a good Account how he came by them, produce the Party of whom he had them, or prove the Sale upon Oath, he ſhall be convicted by the Juſtice of ſuch Offence, and be liable to the Penalties of this Act for killing a Deer.

Detaining Offenders till, &c.

To prevent the Flight or Removal of Offenders after Conviction, the Conſtable or other Officer have Power to detain the Offender in Cuſtody, till ſuch time (not exceeding Two Days) as a Return may be made to the Warrant for the Diſtreſs. *Idem. Stat.*

How Offenders may be reſiſted.

Owners of Deer, and Perſons acting under them, may reſiſt ſuch Offenders, and ſhall be therefore indemnified, as if ſuch Fact had been committed within any ancient Chaſe or Park. *Idem. Stat.*

No *Certiorari*, without Security.

No *Certiorari* ſhall be allowed to remove ſuch Conviction, or other Proceedings on this Act, unleſs the Party convicted become bound to the Proſecutor in 50 *l.* to pay his full Coſts and Damages, to be aſſertain'd upon his Oath; in Default whereof, the Juſtice ſhall proceed to the Execution of the Conviction. *Idem. Stat.*

Not to be twice puniſhed.

No Offender puniſhed by this Act, ſhall be proſecuted upon any other Statute for the ſame Offence. *Ibid.*

And

Pleading General Iſſue.

And any Perſon proſecued for putting this Act in Execution, may plead the General Iſſue, and give the Special Matter in Evidence. *Ibid.*

Pulling down Pales of Parks, *&c.* in the Night.

Alſo, if any Perſon ſhall, in the Night-time, pull down or deſtroy the Pales or Walls of any Park, or other Ground incloſed for the Keeping of Red or Fallow Deer; being convicted thereof by the Oath of one Witneſs before a Juſtice of Peace, ſhall by ſuch Juſtices Warrant ſuffer Impriſonment for Three Months without Bail. *Id. Stat.*

HAWKING.

Taking up a Hawk, and Proclamation.

BY 34 *Ed.* 3. 22. A Hawk taken up ſhall be deliver'd to the Sheriff; who, after Proclamation made in the Towns of the County, if challenged, ſhall deliver her to the Right Owner.

When ſhe may be retain'd, *&c.*

If the Hawk was taken up by a mean Man, and be not challenged within Four Months, the Sheriff ſhall retain her, ſatisfying the Party for taking her; but if by a Man of Eſtate, who may conveniently keep a Hawk, the Sheriff ſhall reſtore her to him again, he anſwering for the Charge of keeping her.

Concealing a Hawk from the Owner.

And if any do take away or conceal a Hawk, he ſhall anſwer the Value thereof to the Owner, and ſuffer Two Years Impriſonment; and in Caſe he be not able to anſwer the Value, he ſhall remain in Priſon a longer Time.

Stealing a Hawk, Felony.

Alſo by the Statute 37 *Ed.* 3. 19. He that ſteals and carries away an Hawk, not obſerving the Ordinance of 34 *Ed.* 3. 22. ſhall be deemed a Felon. It is ſaid, this extends only to Long-wing'd Hawks, of the Kinds of Faulcons, and not to Goſs-Hawks and Sparrow-Hawks, 3 *Co. Inſt.* 97, 98.

Taking Pheaſants, *&c.* without Conſent.

By 11 *Hen.* 7. *cap.* 17. None ſhall take Pheaſants or Partridges with Engins in another's Ground without Licence, on Pain of 10 *l.* to be divided betwixt the King and the Proſecutor.

Taking away Eggs of Faulcons, *&c.*

None ſhall take out of the Neſt any Eggs of Faulcon, Goſs-Hawk, Lanner or Swan, on Pain of a Year and a Days Impriſonment, and to Fine at the King's Pleaſure, to be divided betwixt the King and the Owner of the Ground where the Eggs ſhall be ſo taken. *Id. Stat.*

Baring an Eyeſs-Goss-Hawk, *&c.*

None ſhall bare any Hawk of *Engliſh* Breed, called, *An Eyeſs*, *Goſs-Hawk*, *Taſſell*, *Lanner*, *Lanneret* or *Faulcon*, on Pain to forfeit the ſame to the King. *Ibid.*

Bringing an Eyeſs from beyond-Sea.

And he that brings an Eyeſs-Hawk from beyond the Sea, ſhall have a Certificate under the Cuſtomer's Seal where he lands; or if out of *Scotland*, then under the Seal of the Lord Warden or his Lieutenant, teſtifying that ſhe is a Foreign Hawk, upon the like Pain of forfeiting the Hawk. *Ibid.*

Scaring Hawks from the Coverts, *&c.*

None ſhall take, kill or ſcare away, any of the Hawks aboveſaid, from the Coverts where they uſe to breed, on Pain of 10 *l.* to be recovered before Juſtices of the Peace, and divided betwixt the King and the Proſecutor. *Ibid.*

Taking Hawks, or Hawks Eggs, *&c.*

By 5 *Eliz. cap.* 21. None ſhall unlawfully break or enter into any Chaſe, Park, Woods or other Grounds, and there take any Hawks, or Hawks Eggs, on Pain to ſuffer Three Months Impriſonment, *&c.* (as is before-mentioned, out of the ſaid Statute concerning chaſing and killing of Deer.)

Taking an old Heron, *&c.*

By 19 *Hen.* 7. *cap.* 11. None may take an old Heron without his own Ground (unleſs it be with Hawking or Long-Bow), on Pain of 6 *s.* 8 *d.* Nor a young one out of the Neſt, on Pain of 10 *s.* For which Forfeitures, any Man may Sue by Action of Debt, wherein no Wager of Law, *&c.* is to be allowed.

Impriſonment.

Alſo, any Two Juſtices of Peace may examine ſuch Offenders, and commit them to Priſon, till they have ſatisfied the ſaid Forfeitures; whereof the ſaid Juſtices are to have a Tenth Part.

Taking and deſtroying the Eggs of Wild-Fowl.

And by 25 *Hen.* 8. *cap.* 11. None ſhall deſtroy or take away the Eggs of any Wild-Fowl, on Pain to forfeit for every Egg of a Crane or Buſtard, ſo taken or deſtroyed, 20 *d*; of a Bittern, Hern or Shovelard, 8 *d*; and of a Mallard, Tele, or other Wild-Fowl, 1 *d*; to be divided between the King and the Proſecutor. And the Juſtices of Peace have Power to inquire, hear and determine Offences of this Kind, as they uſe to do in Caſes of Treſpaſs.

Taking Pheaſants, *&c.* in the Night.

By 33 *Eliz. cap.* 10. None ſhall kill or take any Pheaſants or Partridges with any Net or Engine in the Night-time, on Pain to forfeit for every Pheaſant 20 *s.* and for every Partridge 10 *s.* which if he pay not in Ten Days, he is to ſuffer a Month's Impriſonment without Bail, and enter into Bond (for Two Years only), with good Sureties before ſome Juſtice of the Peace, not to offend in the like Kind.

Forfeiture to be divided.

The Forfeiture aforeſaid ſhall be recovered in any Court of Record, and divided betwixt the Lord of the Manor and the Proſecutor. But in caſe the Lord ſhall diſpenſe with the Offender, the Poor of the Pariſh are to have his

Moiety, to be recovered by any of the Church-Wardens. *Ibid.*

Hawking, &c. in Standing Corn.

None ſhall hunt or hawk with his Spaniels in Standing-Corn, or before it is ſhocked (except in his own Ground, or with the Owner's Conſent), on Pain to forfeit 40 *s.* to the Owner of the Ground, as aboveſaid. *Ibid.*

Offences determin'd.

Juſtices of Aſſize, Juſtices of Peace in Seſſions, and Stewards in Leets, have Power to hear and determine theſe Offences; and one Juſtice of the Peace may examine ſuch an Offender, and bind him over with good Sureties to anſwer it at the next General Seſſions, if the Offence be not before determined at the Aſſizes, or in a Leet. *Ibid.*

Exception for Fowlers.

This Act ſhall not reſtrain Fowlers, which unwillingly take Pheaſants or Partridges, and forthwith let them go at Large. *Ibid.*

Killing Fowl, Tracing Hares, &c.

By *Stat.* 1 *Jac.* 1. *cap.* 27. Every Perſon convicted by his own Confeſſion, or by Two Witneſſes upon Oath before Two or more Juſtices of the Peace, to have kill'd or taken any Pheaſant, Partridge, Pigeon, Duck, Heron, Hare, or other Game; or to have taken or deſtroyed the Eggs of Pheaſants, Partridges or Swans; or ſhall Trace or Courſe any Hares in the Snow; or take or deſtroy any Hares with Hare-Pipes, Cords, or other Engines; ſhall be committed to Priſon for Three Months without Bail, unleſs he immediately pay to the Uſe of the Poor where the Offence was committed, or he be apprehended, 20 *s.* for every Fowl, Hare or Egg, ſo killed, taken, or deſtroyed; or, after one Month's Commitment, be bound with Sureties in 20 *l.* a-piece, before Two or more Juſtices of the Peace, never to offend again by ſhooting, killing, taking or deſtroying, any of the aforementioned Game.

Puniſhment or Penalty.

Keeping Grey-Hounds, or Nets to kill or take Deer.

Every Perſon convicted as aboveſaid, to keep a Grey-Hound-Dog, or Net, to kill or take Deer, Hare, Pheaſant, or Partridge, unleſs he have Inheritance of 10 *l. per Ann.* a Leaſe for Life of 30 *l. per Ann.* or be worth 200 *l.* in Goods; or otherwiſe be the Son of a Knight, or Heir Apparent of an Eſquire; ſhall ſuffer Impriſonment as aforeſaid, unleſs he pay 40 *s.* to the Uſe abovementioned. *Ibid.*

Buying and Selling Deer, Hare, Pheaſant, &c.

None ſhall Sell or Buy (to Sell again) any Deer, Hare, Pheaſant or Partridge, except by them rear'd up, or brought from beyond Seas, on Pain to forfeit for every Deer 40 *s.* Hare 10 *s.* Pheaſant 20 *s.* and Partridge 10 *s.* to be divided between the Proſecutor and the Poor of the Pariſh where the Offence is committed. *Ibid.*

Offences determined.

Juſtices of Aſſize, and Juſtices of Peace in their Seſſions, or Two or more out of Seſſions, have Power to hear and determine theſe Offences. *Ibid.* And none ſhall, by any former Law, ſuffer Puniſhment for the ſame Offences for which he ſhall be puniſhed by this Law.

Licence to kill Hawks Meat.

This Act ſhall not reſtrain one Licenſed in open Seſſions to ſhoot Hail-Shot, in Hand-Guns or Birding-Pieces, to kill Hawks-Meat, *viz.* Crow, Cough, Pye, Rook, Ringdove, Jay, or ſmaller Birds; but yet he ſhall be bound in Recognizance of 20 *l.* not to kill any of the Game prohibited by this Act, nor to ſhoot within 600 Paces of a Hearnery, within 100 Paces of a Pigeon-Houſe, or in a Park, Foreſt or Chaſe, whereof his Maſter is not Owner or Keeper.

Hawking at Pheaſants, &c. between the Firſt of *July* and the Laſt of *Auguſt.*

By *Stat.* 7 *Jac. cap.* 11. Every Perſon convicted by his own Confeſſion, or by Two Witneſſes upon Oath before Two or more Juſtices of the Peace, to have hawked at, or deſtroyed, any Pheaſant or Partridge, betwixt the Firſt of *July* and the Laſt of *Auguſt*, ſhall ſuffer one Month's Impriſonment without Bail, unleſs he forthwith pay to the Uſe of the Poor where the Offence was committed, or he apprehended, 40 *s.* for every Time ſo hawking, and 20 *s.* for every Pheaſant or Partridge ſo deſtroyed or taken: But he that ſhall be puniſhed by this Law, ſhall not be puniſh'd again by any other Law for the ſame Offence. And this Offence is to be proſecuted within Six Months after it ſhall be committed.

Proſecution within Six Months.

Licence to take Pheaſants, &c. within their own Grounds.

By this Act, it ſhall be Lawful for the Lord of a Manor, or any having Free Warren, Inheritance of 40 *l. per Ann.* Freehold of 80 *l. per Ann.* or Goods worth 400 *l.* or their Servants, Licenſed by them, to take Pheaſants or Partridges within their own Grounds or Precinct, ſo they do it in the Day-time, and only betwixt *Michaelmas* and *Chriſtmas.*

When mean Perſons take Pheaſants, &c.

And if one of a mean Condition ſhall be convicted by his own Confeſſion, or by one Witneſs upon Oath before Two or more Juſtices of the Peace, to have killed or taken any Pheaſant or Partridge, with Dogs, Nets or Engines, he ſhall by the ſaid Juſtices be committed to Priſon without Bail, unleſs he forthwith pay to the Uſe of the Poor where the Offence was committed 20 *s.* for every Pheaſant or Partridge ſo killed or taken; and alſo become Bound before one or more Juſtices of the Peace, in a Recognizance of 20 *l.* never to offend in the like Kind again.

Recognizance.

Searching ſuſpected Houſes, &c.

Conſtables, &c. may by Warrant of Two Juſtices of the Peace, ſearch the Houſes of Perſons ſuſpected to have any Setting-Dogs, or Nets for the taking Pheaſants and Partridges (contrary to this Act), and the Dogs and Nets there found, to take, carry away, and deſtroy at Pleaſure, as Things forfeited unto the ſaid Officers.

FISH-

FISHING.

Treſpaſſers in Ponds, &c. to pay Treble. Damages.

BY *Weſtm.* 1 and 3 *Ed.* 1. *cap.* 20. Treſpaſſers in Ponds ſhall give treble Damages to the Party grieved, ſuffer Three Years Impriſonment, be Fined at the King's Pleaſure, give Security not to offend again in the like Kind, or abjure the Realm; and, if Fugitive, ſhall be Outlawed.

Taking of Salmons at prohibited Times and Places.

By *Weſtm.* 2. *cap.* 17. *Anno* 13 *Ed.* 1. None ſhall take Salmons betwixt the Eighth of *September* and the middle of *November*; nor young Salmon with Nets or other Engines at Mill-Pools, betwixt the midſt of *April* and the 24th of *June*; on Pain of having their Nets and Engines burnt for the Firſt Offence; for the Second, to ſuffer a Quarter of a Years Impriſonment, and after to have their Puniſhment increaſed, according to the Treſpaſs; and in freſh Waters, Overſeers of this Statute ſhall be aſſign'd and ſworn to inquire of the Offenders.

Deſtroying the Fry.

By *Stat.* 13 *Rich.* 2. 19. No Fiſher ſhall uſe any Engine by which the Fry of Fiſh may be deſtroyed, upon the Pains mentioned in the Statute of *Weſtm.* 2. *cap.* 47.

Taking Fiſh out of Seaſon, or under Size.

By *Stat.* 1 *Eliz.* *cap.* 17. None ſhall uſe any Net or Engine to deſtroy the Spawn or Fry of Fiſh, or take Salmons or Trouts out of Seaſon; or Pikes ſhorter than Ten Inches, Salmons than Sixteen, Trouts than Eight, and Barbles than Twelve; or ſhall uſe any Engine to take Fiſh, other than Angle or Net, or a Tramel of Two Inches and a half Meſh: On Pain to forfeit 20 *s.* and the Fiſh ſo wrongfully taken with the Net or Engine wrongfully uſed.

Offences determined.

All Perſons having Juriſdiction of Conſervancy upon Streams or Waters, and Lords of Leets, have Power upon the Oaths of Twelve Men to hear and determine theſe Offences, and ſhall have all the Forfeitures which accrue thereupon. *Ibid.*

To be charged in the Leet.

Alſo the Steward of the Leet ſhall give this Statute in Charge to the Jury, on Pain of 40 *s.* to be divided between the Queen and the Informer.

Forfeiture for not Preſenting.

And here, if the Jury wilfully forbear to preſent Offences of this Kind, the Steward or Bailiff ſhall impannel another Jury to inquire of their Default; which, being found, the Firſt Jury ſhall forfeit 20 *s.* a-piece. *Ibid.*

Determination upon Juries Default.

Upon Default of Preſentment in Leets within one Year, Juſtices of the Peace in Seſſions, Juſtices of Oyer and Terminer, and Juſtices of Aſſize in Circuits, have Power to Hear and Determine the ſaid Offences. *Ibid.*

What Fiſh to be taken.

But this Act ſhall not reſtrain the taking of Smelts, Minews, Bulheads, Gudgeons or Eels, with Nets or Engines formerly uſed, ſo that no other Fiſh be taken therewith; nor ſhall extend to abridge any former Privilege of Conſervancy lawfully enjoy'd; or Fiſhing in *Tweed*, *Uſk* or *Wye*; or in Waters let to Farm by the Queen, ſo that the Spawn or Fry of Fiſh be not therein wilfully deſtroyed. *Ibid.*

Privilege in *Tweed*, &c.

But Fry not deſtroyed.

Fiſhing, &c. in Ponds without Licence.

By 5 *Eliz.* *cap.* 21. None ſhall unlawfully break down Fiſh-Ponds, or Fiſh there without Licence of the Owner, on Pain to ſuffer and forfeit, as in the ſaid Statute is before obſerv'd, for chaſing and killing Deer, &c.

See before, in Hunting, alſo in Hawking, for this Statute.

Erecting of Wears.

By *Stat.* 3 *Jac.* 1. *cap.* 12. None ſhall erect a Wear or Wears along the Sea-Shore, or any Haven or Creek, or ſhall willingly deſtroy the Spawn or Fry of Fiſh, on Pain of 10 *l.* to be divided between the King and the Proſecutor. Neither ſhall any Fiſh in any of the ſaid Places, with any Net of a leſs Meſh than Three Inches and a half betwixt Knot and Knot, (except for the taking of Smoults in *Norfolk* only) or with a Canvas, Net, or other Engine, whereby the Spawn or Fry of Fiſh may be deſtroyed, on Pain to forfeit the ſaid Net or Engine, and 10 *s.* in Money; to be divided betwixt the Poor of the Pariſh and the Proſecutor, and to be levied in Corporations by the Head Officers; and in other Places by Diſtreſs and Sale of Goods, upon a Warrant of a Juſtice Peace, directed unto the Conſtable and Church-Wardens of the Pariſh for that Purpoſe.

Wideneſs, &c. of Meſhes.

Penalty.

Fiſhing unlawfully in the River *Severn*.

By the *Stat.* 30 *Car.* 2. *cap.* 9. If any Perſon ſhall, in the River of *Severn*, fiſh with, or make Uſe of any Engine or Device, whereby any Salmon, Trout or Barbel, under the Length appointed by the Statute of 1 *Eliz.* 17. ſhall be taken or kill'd, or ſhall Fiſh with any Net for Salmon, Salmon-Mart, Salmon-Peal, Pike, Carp, Trout, Barbel, Chub or Grayling; the Meſh whereof ſhall be under Two Inches and an Half Square from Knot to Knot, or above Twenty Yards in Length, and Two Yards in Breadth; or above Fifty Yards in Length, and Six Yards in Breadth in the Wing of the Net, in the ſaid River, from *Riplelock-Stake* to *Gloceſter-Bridge*; or above Fifty Yards in Length below *Gloceſter-Bridge*; and Six Yards in Breadth in the Wing of the Net; or ſhall Fiſh with more than one of theſe Nets at once; or ſhall uſe any Device for taking the

Taking the Fry of Eels.

the Fry of Eels; he ſhall forfeit Five Pounds for every Offence, with the Fiſh-Inſtruments, *&c.* and Five Pounds a Time for watering Hemp or Flax in the ſaid River.

Puniſhment how to be.

But none ſhall be puniſhed for the ſaid Offence, but by Information or Indictment before the Juſtices of Aſſize, or General Quarter-Seſſions; the one Moiety of the Forfeiture to the Poor, and the other to the Proſecutor, to be levied by *Fieri facias* or *Capias ad ſatisfaciendum.* Ibid.

Rights, *&c.* ſaved.

And here the Juriſdiction of the Lords of Leets, and all Rights, Titles, *&c.* of the King and others, in the ſaid River, are always ſaved. *Idem Statut.*

Some late General Statutes, relating both to Hunting, Hawking, Fiſhing and Fowling, &c.

Laws to be put in Execution.

BY 4 and 5 *W.* & *M. Cap.* 23. All Laws and Statutes in Force, for the better Preſervation of the Game of this Kingdom, and every Clauſe and Thing therein not hereby alter'd or repealed, ſhall be duly put in Execution.

Searching ſuſpected Houſes, *&c.* for Game.

Conſtables, Headboroughs and Tythingmen, by a Juſtice of Peace his Warrant, may and are required to enter into, and ſearch (as by the Act 3 and 4 *W.* & *M. Cap.* 10. in caſe of Veniſon, or Skin of any Deer or Toils) the Houſes of ſuſpected Perſons not qualified. And in caſe any Hare, Partridge, Pheaſant, Fiſh, Fowl, or other Game, ſhall be found in any Offender's Houſe, the Offender is to be carried before a Juſtice of Peace of the County; and being convicted, ſhall forfeit any Sum not under Five Shillings, nor above Twenty Shillings; and for Want of Diſtreſs, the Offender is to be carried to the Houſe of Correction for a Month, or ſome other Space of Time not leſs than Ten Days. *Ibid.*

Penalty.

Perſons unqualified, keeping Bows, Dogs, *&c.*

And if any Perſon, not qualified by the Laws, ſhall keep or uſe any Bows, Greyhounds, Setting-Dogs, Ferrets, Tumbler, Hays, Snares, *&c.* he ſhall be ſubject to the ſame Penalties as the Perſon who ſhall be found to have any Hare, Partridge, Pheaſant, Fiſh, Fowl, or other Game in his Houſe, as aforeſaid, *Ibid.*

Conviction of ſuch.

And if any Perſon charged, ſhall not give ſufficient Evidence of his Innocence, he ſhall be convicted thereof in the ſame Manner, as the Perſon firſt charged therewith; and ſo from Perſon to Perſon, till the firſt Offender be diſcovered. *Ibid.*

Who may oppoſe Offenders.

And all Perſons authoriz'd by Lords of Manors, *&c.* may, within their Royalties, oppoſe and reſiſt ſuch Offenders in the Night-time, in the ſame Manner as if ſuch Fact had been committed within any ancient Chace, Park or Warren encloſed. *Ibid.*

Keeping Nets and Angles, *&c.* for Fiſhing.

That no Perſon ſhall keep any Net, Angle, Leap, Pitch, *&c.* And that Owners of Fiſheries, or their Deputies, may ſeize and keep all Nets, *&c.* Alſo any Perſon, by a Warrant from a Juſtice of the Peace, may, in the Day-time, ſearch the Houſes of Perſons ſuſpected, and ſeize, detain or deſtroy them, as prohibited to be kept by unqualified Perſons. *Ibid.*

Liberty for a Fiſherman.

But this Act ſhall not abridge any Fiſherman or his Apprentice, lawfully authorized, to fiſh in Navigable Rivers with lawful Nets. *Ibid.*

Hunting, Hawking, *&c.* by inferiour Tradeſmen, *&c.*

Penalty.

And if any inferiour Tradeſman, Apprentice, or other diſſolute Perſon, ſhall hunt, hawk, fiſh or fowl, (unleſs in Company with the Maſter of ſuch an Apprentice qualified by Law) they ſhall be ſubject to the Penalties of this Act, and may be ſued for Treſpaſs in coming upon any Perſon's Ground; in which Suit, the Plaintiff ſhall recover his Damages and full Coſts. *Ibid.*

No *Certiorari* to remove Proceedings.

Alſo no *Certiorari* is to be allowed to remove any Proceedings on this Act, unleſs the Party moving be firſt bound with Sureties in Fifty Pound to pay the Proſecutor his full Coſts, after the Conviction confirm'd, or *Procedendo* granted. *Ibid*

Not twice puniſhed.

Yet Offenders puniſhed by this Act, are not to incur the Penalty of any other Law for the ſame Offence. *Ibid.*

General Iſſue pleaded.

And Perſons proſecuted for any Thing done in purſuance of this Act, may plead the General Iſſue; and if it go for them, they ſhall have Treble Damages. *Ibid.*

Preſerving Heath-Polts.

Laſtly, By this Act for the preſerving the Red and Black Game of Growſe or Heath-Polts, No Perſon on any Mountains, Hills, Heaths, Moors, Foreſts, Chaces, or other Waſtes, ſhall burn between the Second Day of *February* and Four and twentieth of *June*, any Grig, Ling, Heath, Furz, Gorſe or Fern, on Pain of being committed to the Houſe of Correction for any Time not exceeding a Month, nor under Ten Days, there to be whipt, and kept to hard Labour.

Penalty for burning Ling, *&c.*

Penalties for Game deſtroyed by Officers or Soldiers.

By *Stat.* 4 & 5 *W.* & *M. Cap.* 13. If any Officer or Soldier, without Leave of the Lord of the Manor, under his Hand and Seal, take and deſtroy any Game, and ſhall be convicted thereof, upon Oath

Oath before a Juſtice of Peace, he ſhall forfeit, if an Officer, Five Pounds, to be diſtributed among the Poor of the Pariſh. And every Officer commanding in Chief, ſhall forfeit, for every ſuch Offence committed by any Soldier under his Command, Ten Shillings, to be diſtributed, as aforeſaid; and for Default of Payment within Two Days after Conviction, and Demand by the Conſtable or Overſeer, ſuch Officer's Commiſſion is forfeited, and made null and void. This Act was reviv'd by ſeveral ſubſequent Acts, and by 1 *Annæ Seſſ.* 2. *Cap.* 16. was to continue till the 25th of *March* 1704.

Act reviv'd.

The like Proviſion againſt Officers and Soldiers.

And by the *Statute* of 2 & 3 *Ann. Cap.* 20. it was again Enacted, That if any Officer or Soldier, without Leave, (*ut ſupra*) take or deſtroy any Hare, Coney, Pheaſant, Partridge, Pigeon, or any other Sort of Fowl, Poultry, or Fiſh, he ſhall upon Conviction (*ut ſupra*) forfeit, if an Officer, 5 *l.* and for every ſuch Offence committed by any Soldier under Command, the Officer commanding in Chief ſhall pay Twenty Shillings, or loſe his Commiſſion (*ut ſupra*).

The like Proviſion continued.

The like Proviſion, as laſt above, was again Enacted, 3 & 4 *Annæ, c.* 16. which Act was continued by another Act paſſed 4 & 5 *Annæ, Cap.* 11. to the 25th of *March* 1707. And ſince, all and every the Proviſions, Clauſes, Matters and Things in the ſaid Act of 2 & 3 *Ann.* 20. contain'd, are further continued to *Mar.* 25. 1708.

Forfeiture by Officer or Soldier deſtroying Game.

By an Act made *Anno 7 Annæ Reginæ*, for puniſhing of Mutiny, *&c.* it is Enacted, That if any Officer or Soldier, *&c.* without Leave of the Lord of the Manor, *&c.* deſtroy any Game, Poultry or Fiſh, *&c.* and be convict before any Juſtice, *&c.* he ſhall forfeit Five Pounds to the Poor of the Place, *&c.* every Soldier Twenty Shillings; and ſuch Officer not paying within Two Days the ſaid Penalties, ſhall forfeit his Commiſſion.

The laſt Act made, relating to Game.

By an Act of Parliament made 5 *Ann. Cap.* 14. for the better Preſervation of the Game, it is Enacted, That all Laws in being, for the Preſervation of the Game, not thereby repealed or altered, ſhall continue, remain, and be in the ſame Force, *&c.*

Higlers and Carriers, *&c.* having Hares, Pheaſants, *&c.* in their Poſſeſſion.

That if any Higler, Chapman, Carrier, Inn-keeper, Victualler or Alehouſe-keeper, ſhall have in his or their Poſſeſſion any Hare, Pheaſant, Partridge, Moor, Heath-Game or Grouſe; or ſhall buy, ſell, or offer to Sale any ſuch; every ſuch Higler, *&c.* or Carrier (unleſs ſuch Game in the Hands of ſuch Carrier be ſent up by Perſon or Perſons qualified to kill the Game), ſhall upon every ſuch Offence be carried before ſome Juſtice of the Peace for the County, *&c.* where the ſaid Offence is committed, and upon View or Oath of one or more Witneſſes ſhall be convicted of the ſame, and ſhall forfeit for every Hare, Pheaſant, Partridge, Moor, Heath-Game or Grouſe, the Sum of Five Pounds, Half to the Informer, and Half to the Poor of the Pariſh where the Offence was committed; to be levied by Diſtreſs and and Sale of the Offender's Goods, by Warrant under Hand and Seal of the Juſtice, before whom the Offender was convicted. For Want of Diſtreſs, the Offender to be committed to the Houſe of Correction for Three Months, for the firſt Offence; and for every other Offence, for Four Months, without Bail; the Proſecution to be within Three Months after the Offence. *Idem Stat.*

Forfeiture.

Commitment for Want of Diſtreſs.

No *Certiorari*.

That no *Certiorari* ſhall be allowed to remove any Conviction, or other Proceedings in this Act, into any Court of *Weſtminſter*, unleſs the Party convicted ſhall firſt become bound to the Party proſecuting with ſufficient Sureties for the Sum of Fifty Pounds, conditioned for paying the Proſecutor, within Fourteen Days after *Procedendo* granted, his full Coſts and Charges, *&c. Idem Stat.*

Without Surety.

Encouragement for Diſcoverers, tho' Treſpaſſers.

If any Perſon that ſhall deſtroy, ſell, or buy any Hare, Pheaſant, Partridge, *&c.* ſhall within Three Months make Diſcovery of any Higler, Chapman, Carrier, Inn-keeper, Alehouſe-keeper or Victualler, that hath bought or ſold, or offered to buy or ſell, or had in their Poſſeſſion any Hare, *&c.* ſo as any one ſhall be convicted of ſuch Offence as aforeſaid, ſuch Diſcoverer ſhall be diſcharged of the Penalties aforeſaid, and ſhall receive the Benefit and Advantage as any other Informer. *Idem Stat.*

Diſcharge, and Benefit.

Unqualified Perſons keeping Dogs, *&c.* to deſtroy Game.

That if any Perſon, not qualified by Law, ſhall keep or uſe any Greyhounds, Setting-Dogs, Lurchers, Tunnels, or any other Engine to kill and deſtroy the Game, and ſhall be thereof convicted upon the Oath of one or more credible Witneſſes as aforeſaid, he ſhall forfeit the Sum of Five Pounds, to be diſpoſed and levied as aforeſaid; and for Want of Diſtreſs, the Offender to be ſent to the Houſe of Correction for Three Months for the firſt Offence, and Four Months for every other.

Forfeiture.

Who may ſeize, *&c.* ſuch Game from Offenders.

Alſo their Dogs, Nets, *&c.*

And any of the Juſtices of Peace in their reſpective Counties, *&c.* and the Lords or Ladies of Manors, within their Manors may take away any ſuch Hare, Pheaſant, Partridge, and from any ſuch Higler, Chapman, Inn-keeper, Victualler or Carrier, or any other Perſon not qualified to kill the ſame, as ſhall be found in their Poſſeſſion; and likewiſe may take away ſuch Dogs, Nets, or other Engines, which ſhall be in the Power or Cuſtody of any Perſon not qualified to keep the ſame, to their own proper Uſe. *Id. Statut.*

Licence given to a Game-keeper.

Alſo any Lord or Lady of a Manor may, by Writing under his or her Hand and Seal, impower his or her Game-keeper within their reſpective Lordſhips or Manors, to kill Hare, Pheaſant, Partridge, *&c.* But if the ſaid Game-keeper ſhall, under Colour of the ſaid Power, kill, and afterwards ſell or diſpoſe thereof to any Perſon whatſoever, without the Conſent of the Lord or Lady of ſuch Manor, upon Conviction, as aforeſaid, he ſhall be committed to the Houſe of Correction for Three Months, there to be kept to hard Labour. *Id. Stat.*

His Puniſhment, if he proves an Offender.

Firing Ling, *&c.* in the Foreſt of *Sherwood*, or County of *Nottingham.*

Alſo if any Perſon ſhall ſet Fire to any Ling, Heath or Brakes, (which Thing tends to the Deſtruction of the Breed of Game) in any Part of the Foreſt of *Sherwood*, or on any Land within the County of *Nottingham*, or ſhall cut any Ling, *&c.* in order to burn the ſame upon the Ground, in any Part of the ſaid County, without Licence from the Owner of the Soil, he ſhall forfeit Ten Shillings to the Owner of the Soil, and all the Aſhes which ſhall be ſo burnt. And whoſoever ſhall buy any Fern-Aſhes of any ſuch unlicenſed Perſon, within the ſaid County, ſhall forfeit, for every Peck of ſuch Aſhes ſo bought, Ten Shillings, one Moiety to the Poor of the Pariſh, the other to the Informer. *Idem Statut.*

Forfeiture of Fern-Aſhes.

Forfeiture of Scythes and Rakes, *&c.*

And the Officers of the ſaid Foreſt, and Owners of the Soil where the Offence ſhall be committed, their Servants or Agents, may take away for their own Uſe the Scythes, Rakes, and other Inſtruments to be uſed for thoſe Purpoſes, of every Perſon ſo offending. *Idem Statut.*

Commitment for Penalties.

And every Perſon convicted of any of the ſaid Offences before any one Juſtice of the Peace, by the Oath of one or more Witneſſes, ſhall immediately pay down the Penalties hereby impoſed, or be committed by ſuch Juſtice to the Houſe of Correction for one Month, unleſs the Penalties be paid in the mean time. *Id. Statut.*

Continuance of this Act.

This Act is to remain in Force for Three Years from the firſt of *May* 1707. and from thence to the End of the next Seſſions of Parliament, and no longer.

A late Act made, relating to the New Foreſt *in* Hampſhire.

Concerning New Foreſt, and incloſing 2000 Acres of Waſte.

NOTE, there is a Statute made 9 & 10 *W.* 3. *Cap.* 36. to enable his Majeſty, his Heirs and Succeſſors, to incloſe and improve 2000 Acres, part of the waſte Lands of the New Foreſt in the County of *Southampton*, for the Growth and Preſervation of Timber for Supply of his Majeſty's Royal Navy: And when thoſe 2000 Acres are thought fit to be laid open, then the like Quantity to be ſet out and incloſed in ſome other Part of the ſaid Waſtes, free of all Herbage, Pannage, or other Rights, while incloſed to be a Nurſery for Timber, as aforeſaid: Alſo there may be incloſed 200 Acres more of the Waſte, for Twenty Years after the firſt 2000 Acres ſet out and incloſed, *&c.*

To preſerve Timber for the Royal Navy.

Notice to the Verderors, *&c.* of felling Timber, *&c.*

Alſo it is Enacted, That when any Wood or Timber is to be fell'd in any Part of the ſaid Foreſt, Two or more of the Verderors, and Four or more of the Regardors of the ſaid Foreſt, ſhall have Notice thereof; and it ſhall not be fell'd, till firſt view'd and allow'd to be fell'd by a Commiſſioner or Officer of the Navy.

Trees to be mark'd out.

Then directs, That Coppice-Woods ſhall not be cut, till the Surveyor ſhall have mark'd ſuch Trees as are fit to be reſerved for Timber. And if any Perſons ſhall fell any ſuch Wood or Trees before View and Allowance, or cut down any of the ſaid marked Trees without good Warrant, they ſhall forfeit for every Tree ſo fell'd, Fifty Pounds, one Moiety to the King, the other to them that will ſue for the ſame.

Forfeiture for cutting them without Warrant.

The Incloſures not to be ploughed, *&c.*

Alſo the ſaid Incloſures ſhall not be ploughed or ſowed with Corn, or fed with Cattle, or kept for Underwood, but in ſuch manner as ſhall be fit for raiſing Timber for the Navy.

Topping or browſing Oaks, *&c.*

Forfeiture.

That if any Foreſter, Keeper, or Under-keeper, or other Officer or Perſon, or any by their Direction, ſhall top, lop, or browſe any Oak or Beech-Tree in the ſaid Foreſt, ſuch Officer, for every ſuch Offence, ſhall forfeit Ten Pounds, and be incapable of any ſuch Office.

Burning of Charcoal.

Nor ſhall any Collier, Keeper or Under-keeper, make or ſuffer any Coal-Fires for making Charcoal within the ſaid Foreſt, (as being contrary to Law) except in the waſte Ground of the ſaid Foreſt particularly appointed, and not within 1000 Paces of any Incloſure to be made by this Act.

Fencing Fires with Buſhes.

Forfeitures.

Drifts.

Nor ſhall ſuch Coal-Fires be fenced with Buſhes, but with Heath or Furz only; but every Collier making ſuch Coal-Fires, and every Officer permitting them, ſhall forfeit for every Offence One hundred Pounds. And the ſaid Under-keeper or Foreſters ſhall alſo forfeit Twenty Pounds for every Neglect in not making the Drifts of the ſaid Foreſt, as directed by the Statute of 32 *H.* 8. (*Sed quære* how theſe Forfeitures are to be recovered and divided.)

That

Breaking the Inclosures of Nurseries.

That all Persons who shall break down any of the said Inclosures for raising Nurseries of Wood and Timber (which Inclosures are to be kept up Twenty Years at the least from their making), or shall burn Heath or Fern, or destroy any of the Covert, or steal any of the Wood, shall, in the next Attachment or Swain-

Presentment.

mote-Court, be presented; and upon Proof thereof made, two or more of the Verderors shall fine such Persons for every such Offence, not exceeding Five

Penalty.

Pounds, and send the Party to Gaol for Three Months, or till Payment of

High-Steward.

the Fine to the High or Under-Steward of the said Forest; one Moiety to the Informer, the other to be accounted for as his Majesty shall think fit.

This Act not to alter the Forest-Laws, except, *&c.*

But all Persons punished by this Act, shall not be punished by any other Law for the same Offence: Also this Act shall not alter the Forest-Laws, except before-mention'd.

Right of Common, *&c.* saved after 1716.

All Persons having Right of Common of Pasture or Pannage, or any Privileges within the said Forest, shall enjoy their Right of Pannage between the 14th of *September* and the 11th of *November* after *Michaelmas* 1716. and not

Forfeiture.

before, on Forfeiture of any Hog, Pig or Swine, that before the Time aforesaid shall be found in the Wastes of the said Forest.

Common, *&c.* in the Waste, except in the Fence-Month, *&c.*

And their Common of Pasture is continued to them in their said waste Ground of the Forest, when not inclosed, except in the Fence-Month, *viz.* Fifteen Days before and after *Midsummer*; and in the Winter Heyning, *viz.* from the 11th of *November* to the 23d of *April*, subject to the Forest-Laws, as they might have enjoy'd the same before the making of this Act: Saving also to the adjacent Inhabitants their ancient Right of Fuel, provided they do not sell or dispose of any Part thereof; nor take the same in other Manner than they ought; nor by Reason of any Claim not allowed according to the Forest Laws before 27 *Eliz.*

Subject to the Forest-Laws.

Forfeitures by Persons taking Grants of the Inclosures, *&c.*

If any Persons take any Grant of the said Inclosures or Wastes, or any Woods or Trees growing thereon; every such Grant shall be void, and the Persons incapable to hold the same, and shall forfeit Treble the Value of the said Grant to them that shall first sue for the same; and shall also be incapable of holding any Office or Imployment whatsoever.

Notice of Sale of Wood, *&c.*

Publick Notice is to be given in adjacent Market Towns when any Sale of Wood is to be made; and also before the Sale, to Two or more of the Verderors, of the Valuation made; and he that offers most above the Valuation, shall be the Purchaser.

Officer taking Fees or Gratuities, *&c.*

No Officer shall take any Fee or Gratuity for felling Trees to be cut down for the Inclosures, or upon Sale of the Residue of such Trees, or of the Lops or Tops, or Roots of the said Trees.

Shall forfeit his Office.

Also any Officer offending, in cutting down and disposing of Trees contrary to this Act, shall forfeit his Office.

F I N I S.

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